

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SAM HADAWAY,

Plaintiff,

v.

Case No. 2:19-cv-01106-PP

CITY OF MILWAUKEE, et al.,

Defendants.

Exhibit 4

BROWN & JONES REPORTING, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

SAM HADAWAY,

Plaintiff,

-vs-

Case No. 19-cv-1106

CITY OF MILWAUKEE, et al.,

Defendants.

Video examination of CARL BUSCHMANN,
taken at the instance of the Plaintiff, under and
pursuant to the Federal Rules of Civil Procedure,
before SAMANTHA J. SHALLUE, a Registered Professional
Reporter and Notary Public in and for the State of
Wisconsin, at Brown & Jones Reporting, Inc., 735
North Water Street, Suite M185, Milwaukee, Wisconsin,
on April 7, 2021, commencing at 10:11 a.m. and
concluding at 4:19 p.m.

A P P E A R A N C E S

LOEVY & LOEVY, by
MS. HEATHER LEWIS DONNELL,
311 North Aberdeen, 3rd Floor,
Chicago, Illinois 60607,
appeared on behalf of the Plaintiff.

CITY OF MILWAUKEE,
OFFICE OF CITY ATTORNEY, by
MS. NAOMI E. GEHLING,
200 East Wells Street, Room 800,
Milwaukee, Wisconsin 53202,
appeared on behalf of the Defendants.

A L S O P R E S E N T

MS. KRISTEN WILLIAMS, City of Milwaukee.
MR. JON HANSEN, Videographer.

* * * * *

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Disposition of Original Exhibits:

Attached to Original Transcript.

* * * * *

1 TRANSCRIPT OF PROCEEDINGS

10:11:37 2 THE VIDEOGRAPHER: Good morning. We
10:11:38 3 are on the record. The time is 10:11. Today's
10:11:43 4 date, April 7, 2021. This is Media No. 1 of
10:11:47 5 the deposition of Carl Buschmann.

10:11:49 6 This deposition is being taken in the
10:11:51 7 matter of Sam Hadaway versus City of Milwaukee,
10:11:57 8 United States District Court for the Eastern
10:11:58 9 District of Wisconsin, Case No. 19-cv-01106.

10:12:04 10 This deposition is taking place at
10:12:08 11 735 Water Street, Milwaukee, Wisconsin.

10:12:11 12 My name is Jon Hansen, CLVS, and I'm
10:12:15 13 the videographer with Brown & Jones.

10:12:18 14 At this time if counsel could state
10:12:20 15 their appearance, after which our reporter will
10:12:21 16 swear in the witness and we can proceed.

10:12:21 17 MS. DONNELL: Good morning. Heather
10:12:23 18 Lewis Donnell, D-O-N-N-E-L-L, on behalf of the
10:12:26 19 plaintiff, Sam Hadaway.

10:12:27 20 MS. GEHLING: Good morning.
10:12:29 21 Assistant City Attorney Naomi Gehling, G, as in
10:12:34 22 "girl," -E-H-L-I-N-G, on behalf of the
10:12:36 23 defendants. With me today is Kristen Williams,
10:12:40 24 regular spelling, my paralegal.

10:12:40 25 CARL BUSCHMANN, called as a witness

10:12:40 1 herein, having been first duly sworn on oath,
10:12:48 2 was examined and testified as follows:

10:12:48 3 EXAMINATION

10:12:48 4 BY MS. DONNELL:

10:12:51 5 Q Good morning, Mr. Buschmann. How are you?

10:12:56 6 A Fine.

10:12:57 7 Q I know you've been deposed before, but just for
10:13:00 8 a reminder, if you don't understand one of my
10:13:02 9 questions, please let me know. I'm happy to
10:13:04 10 say it again or rephrase it, okay?

10:13:06 11 A Okay.

10:13:06 12 Q If I -- if you answer one of my questions, I'm
10:13:08 13 going to assume that you understood it. Fair?

10:13:10 14 A Fair.

10:13:11 15 Q If at any point you need to take a break, let
10:13:16 16 me know. I'm happy to accommodate that. I
10:13:19 17 just ask that you answer any question that's
10:13:22 18 pending before we take a break, okay?

10:13:24 19 A Okay.

10:13:24 20 Q All right. Did you meet with your attorney to
10:13:29 21 prepare for your deposition today?

10:13:30 22 A Yes.

10:13:30 23 Q I don't want to know about the communications
10:13:33 24 you had with her, but I'm going to ask you some
10:13:35 25 questions about those meetings, okay?

10:13:37 1 A Sure.

10:13:38 2 Q Was there more than one meeting?

10:13:40 3 A No.

10:13:40 4 Q Who was present for the meeting you had other

10:13:45 5 than you and Ms. Gehling?

10:13:49 6 A The paralegal.

10:13:50 7 Q Is that Ms. Williams who's also present here

10:13:54 8 today?

10:13:54 9 A Yes. James DeValkenaere and Robert Simons.

10:14:02 10 Q When was the meeting that you had with

10:14:05 11 Ms. Gehling, Ms. Williams, Mr. DeValkenaere,

10:14:10 12 and Mr. Simons?

10:14:11 13 A A couple weeks ago.

10:14:12 14 Q How long was that meeting for?

10:14:17 15 A About an hour.

10:14:18 16 Q Where was it?

10:14:22 17 A In Gehling's office.

10:14:27 18 Q At the City Attorney's Office in Milwaukee?

10:14:30 19 A Yes.

10:14:30 20 Q During that approximately one-hour meeting that

10:14:37 21 you had a couple weeks ago with Ms. Gehling and

10:14:41 22 the other defendants and Ms. Williams, did you

10:14:43 23 look at any documents?

10:14:44 24 A Yes.

10:14:45 25 Q What documents did you look at?

10:14:50 1 A I looked at Hadaway's statement that he gave to
10:14:56 2 me, I looked at the statements he gave to the
10:15:01 3 previous detectives, and some reports that were
10:15:06 4 filed by other detectives regarding
10:15:10 5 Mr. Hadaway.

10:15:10 6 Q The first document you mentioned, Mr. Hadaway's
10:15:19 7 statement, was that a handwritten statement?

10:15:22 8 A Yes.

10:15:23 9 Q And was that in your handwriting?

10:15:24 10 A Yes.

10:15:25 11 Q Okay. Did you also look at your supplementary
10:15:33 12 report that went along with the statement that
10:15:35 13 Mr. Hadaway gave?

10:15:36 14 A No.

10:15:36 15 Q You also said that you looked at statements
10:15:38 16 that Mr. Hadaway had provided to other
10:15:41 17 detectives; is that right?

10:15:42 18 A Yes.

10:15:42 19 Q Were those handwritten statements?

10:15:45 20 A Yes.

10:15:46 21 Q Did you read any supplementary reports
10:15:50 22 pertaining or correlating with those
10:15:52 23 handwritten statements Mr. Hadaway provided to
10:15:54 24 detectives prior to your interaction with him?

10:15:57 25 A No.

10:15:57 1 Q And then you mentioned some -- some police
10:16:06 2 reports by other detectives; is that right?

10:16:08 3 A Yes.

10:16:09 4 Q Were those police reports -- well, strike that.

10:16:15 5 Do you remember anything about who
10:16:17 6 those reports were by or what they were
10:16:20 7 documenting?

10:16:20 8 A One was by Detective Cameo Barbian-Gayan, and
10:16:29 9 the other one was Detective Katherine Hein.

10:16:34 10 Q And with respect to the -- those are
10:16:38 11 supplementary reports, both of them; is that
10:16:41 12 right?

10:16:41 13 A Yes.

10:16:41 14 Q Regarding the first supplementary report that
10:16:45 15 you reviewed at your meeting to prepare for
10:16:47 16 your deposition by Cameo Barbian-Gayan, what
10:16:50 17 subject matter did that report pertain to?

10:16:52 18 A The statement that Hadaway had given to me.

10:17:03 19 Q And how about the -- anything else that you
10:17:10 20 remember about the supplementary report that
10:17:14 21 Cameo Barbian had prepared?

10:17:14 22 A She asked him about there possibly being a
10:17:21 23 fourth person with them.

10:17:22 24 Q And anything else you recall about that report?

10:17:24 25 A No.

10:17:25 1 Q Okay. How about the one by Detective Katherine
10:17:36 2 Hein? What do you recall about that
10:17:37 3 supplementary report?

10:17:39 4 A I know that was regarding Hadaway's meeting
10:17:42 5 with Chaunte Ott's attorney and reviewing his
10:17:47 6 statement to Milwaukee police detectives.

10:17:53 7 Q Anything else?

10:18:00 8 A No.

10:18:01 9 Q Other than the handwritten statements you
10:18:04 10 reviewed of Mr. Hadaway that you've identified
10:18:07 11 and the supplementary report by Detective Cameo
10:18:12 12 Barbian and Detective Hein, any other documents
10:18:14 13 that you recall reviewing during your meeting
10:18:17 14 with your attorney to prepare for your
10:18:18 15 deposition today?

10:18:19 16 A No.

10:18:19 17 Q Did you review any of the statements provided
10:18:26 18 by Mr. Richard Gwin?

10:18:29 19 A No.

10:18:29 20 Q Do you recall the individual by the name of
10:18:34 21 Richard Gwin who was spoken to during the Payne
10:18:37 22 investigation?

10:18:38 23 A Yes.

10:18:39 24 Q Did you review any of your deposition testimony
10:18:52 25 that you gave in the Ott versus City of Chicago

10:18:56 1 [sic] civil case?

10:18:57 2 A I did not.

10:18:58 3 Q Did you look at any photographs from the Payne

10:19:03 4 homicide investigation?

10:19:04 5 A No.

10:19:05 6 Q Did you look at the medical examiner's report

10:19:11 7 or toxicology report?

10:19:13 8 A No.

10:19:13 9 Q Okay. Okay. The last time that I spoke to you

10:19:33 10 or met you was back in 2012, I believe, in the

10:19:38 11 Ott matter, and at that point you were employed

10:19:40 12 with the district attorney's office as an

10:19:43 13 investigator and had been for approximately

10:19:45 14 four years. Does that sound right to you?

10:19:47 15 A Yes.

10:19:47 16 Q Are you still employed as an investigator with

10:19:50 17 the district attorney's office?

10:19:51 18 A I am not.

10:19:52 19 Q When did you stop working for the district

10:19:55 20 attorney's office?

10:19:56 21 A I retired in March of 2018.

10:20:00 22 Q Are you employed in any capacity now?

10:20:06 23 A No.

10:20:06 24 Q So you're fully retired?

10:20:09 25 A Yes.

10:20:09 1 Q Did you work for the DA's office for about a
10:20:22 2 ten-year period of time?
10:20:24 3 A Just short of 12 years.
10:20:26 4 Q Oh, just short of 12 years. Okay. And was
10:20:33 5 that always in the capacity as an investigator?
10:20:36 6 A Yes.
10:20:37 7 Q I guess after 2012, what were your assignments
10:20:49 8 in terms of units or special assignments with
10:20:52 9 the district attorney's office as an
10:20:54 10 investigator?
10:20:55 11 A I was assigned to the witness protection unit.
10:20:58 12 Q And were you part of the witness protection
10:21:02 13 unit from 2012 till your retirement in 20- --
10:21:04 14 March of 2018?
10:21:06 15 A Yes.
10:21:06 16 Q Okay. I'm going to briefly go over your
10:21:19 17 employment history with the Milwaukee Police
10:21:21 18 Department, okay?
10:21:22 19 A Yes.
10:21:22 20 Q You started as a police cadet or police intern?
10:21:28 21 A Police aide.
10:21:29 22 Q Police aide. I'm sorry. Different agencies
10:21:32 23 have different terms for it, but basically you
10:21:34 24 started at the age of, was it, 19?
10:21:37 25 A 19.

10:21:37 1 Q And you had had family members as part of the
10:21:41 2 department before you, right?

10:21:42 3 A Yes.

10:21:42 4 Q Was that your uncle and your cousin?

10:21:44 5 A Yes.

10:21:44 6 Q Any other family members that have been part of
10:21:48 7 the Milwaukee Police Department other than you,
10:21:50 8 your uncle, and your cousin?

10:21:52 9 A No.

10:21:52 10 Q Okay. And you served a total of 31 years with
10:21:57 11 the Milwaukee Police Department; is that right?

10:21:59 12 A Yes.

10:22:00 13 Q And what was your date of being sworn in?

10:22:06 14 A Well, when I first was hired it was August of
10:22:15 15 1975.

10:22:18 16 Q And that was as a police aide?

10:22:20 17 A Yes.

10:22:21 18 Q And then when you turned 21, you became a sworn
10:22:24 19 officer?

10:22:25 20 A Yes.

10:22:25 21 Q So that would have been '77?

10:22:26 22 A May of 1977.

10:22:28 23 Q And I forget, is that before you went to the
10:22:30 24 academy or after you went to the academy that
10:22:32 25 you were sworn?

10:22:33 1 A I was sworn in both times, but when I was sworn
10:22:37 2 in as a police officer, it was before the
10:22:39 3 academy.

10:22:39 4 Q Okay. So you were sworn in in May 1977 and
10:22:43 5 then you went to the police academy?

10:22:46 6 A Yes.

10:22:46 7 Q Okay. And that academy was here in Milwaukee;
10:22:52 8 is that right?

10:22:52 9 A Yes.

10:22:53 10 Q Okay. And then you were part of the patrol
10:22:59 11 division until you were promoted to the rank of
10:23:01 12 detective in April 1991; is that right?

10:23:04 13 A Yes.

10:23:04 14 Q And you'll have to remind me. Did you have to
10:23:10 15 take a test to become a detective at that time?

10:23:13 16 A Yes.

10:23:13 17 Q And you took the -- how many times did you take
10:23:16 18 the test to become a detective?

10:23:18 19 A One time.

10:23:18 20 Q And then you retired at the rank of detective,
10:23:25 21 correct?

10:23:25 22 A Yes.

10:23:26 23 Q And you never sought to -- did you ever seek to
10:23:29 24 be promoted?

10:23:30 25 A No.

10:23:30 1 Q Okay. Now, your time at the Criminal
10:23:43 2 Investigative Bureau -- that's the name for the
10:23:46 3 detective division while you were there?

10:23:48 4 A Yes.

10:23:48 5 Q Okay. And is it -- did it -- was it called
10:23:51 6 "CIB" for short?

10:23:52 7 A Yes.

10:23:52 8 Q Okay. So if I use the term "CIB," you'll know
10:23:56 9 what I'm referring to?

10:23:57 10 A Yes.

10:23:58 11 Q Okay. Oh, what was your date of retirement?
10:24:05 12 I'm sorry. I forgot to ask that.

10:24:07 13 A June of 2006.

10:24:09 14 Q Okay. Okay. So from April 1991 to June 2006,
10:24:17 15 you were part of CIB, correct?

10:24:20 16 A Yes.

10:24:20 17 Q And you had -- it's fair to say you had various
10:24:25 18 assignments within the units of CIB over that
10:24:29 19 time period, right?

10:24:30 20 A Yes.

10:24:30 21 Q Okay. I would like to -- can you describe your
10:24:32 22 assignments that you had from April 1991 till
10:24:37 23 your retirement in June 2006 at CIB?

10:24:40 24 A I was assigned to the violent crimes unit, the
10:24:47 25 crimes against persons unit, and homicide.

10:24:50 1 Q And when were you assigned to -- was your first
10:25:03 2 assignment violent crimes?
10:25:05 3 A My first assignment I would say was general
10:25:08 4 duty. I was just learning the position.
10:25:12 5 Q And how long were you assigned to general duty
10:25:18 6 at CIB?
10:25:19 7 A I don't recall.
10:25:23 8 Q Okay. How long were you assigned to the
10:25:29 9 homicide unit?
10:25:31 10 A Off and on, about 11 years.
10:25:35 11 Q 11 years total, but not consecutive?
10:25:40 12 A Correct.
10:25:40 13 Q Okay. What was the first stint you did in the
10:25:43 14 homicide unit of CIB?
10:25:45 15 A I don't recall the year. It was --
10:25:57 16 Q Oh, sorry. The Payne investigation was, you
10:26:00 17 know, October 1995, and at that point you were
10:26:03 18 a homicide detective, right?
10:26:05 19 A Yes.
10:26:06 20 Q Was that the first assignment -- time you were
10:26:09 21 first assigned to homicide?
10:26:10 22 A I probably was there maybe a year before that.
10:26:15 23 Q Okay. So you may have been assigned around
10:26:25 24 1994?
10:26:25 25 A Yes.

10:26:26 1 Q And do you remember how long you were at
10:26:30 2 homicide during that first period of
10:26:32 3 assignment?
10:26:33 4 A A couple years.
10:26:35 5 Q Like, two to three years?
10:26:38 6 A Yes.
10:26:38 7 Q Okay. And then where did you move after that?
10:26:42 8 A I went to violent crimes.
10:26:47 9 Q Can you identify for the record what kind of
10:26:50 10 crimes violent crime detectives investigated?
10:26:53 11 A We investigate non-fatal shootings, stabbings.
10:27:01 12 Q Is that non-fatal stabbings?
10:27:03 13 A Yes. We basically investigate the same things
10:27:08 14 homicide would investigate, only that our
10:27:11 15 victims survive.
10:27:13 16 Q Is it accurate to say at this time period in
10:27:18 17 the City of Milwaukee sexual assaults were
10:27:20 18 assigned to the sensitive crime unit within
10:27:24 19 CIB?
10:27:24 20 A Yes.
10:27:24 21 Q So violent crimes would not include crimes of
10:27:27 22 sexual assault?
10:27:28 23 A No.
10:27:28 24 Q Okay. If there was a non-fatal crime that
10:27:36 25 included a sexual assault, would it go to

10:27:39 1 violent crimes or sensitive crimes during this
10:27:42 2 time period?

10:27:43 3 A The initial investigation may start with
10:27:48 4 violent crimes, but I would say that it would
10:27:52 5 eventually go to sensitive crimes.

10:27:54 6 Q Do you recall how long you were assigned to the
10:28:01 7 violent crimes unit of CIB?

10:28:04 8 A A year.

10:28:06 9 Q Where did you go next?

10:28:11 10 A Crimes against persons.

10:28:13 11 Q What kind of crimes does the crimes against
10:28:17 12 persons -- did the crimes against persons unit
10:28:19 13 at CIB investigate when you were assigned
10:28:22 14 there?

10:28:22 15 A My assignment was to the -- they called it the
10:28:26 16 "holdup squad." We investigated bank
10:28:29 17 robberies, armed robberies, street robberies,
10:28:35 18 and that.

10:28:37 19 Q Thank you. Do you recall how long you were
10:28:40 20 assigned to the crimes against persons unit?

10:28:42 21 A Two years.

10:28:48 22 Q Where did you go next?

10:28:50 23 A Back to homicide.

10:28:51 24 Q And was that for the last six years you were at
10:28:56 25 homicide?

10:28:57 1 A There was a -- I went back to homicide for a
10:29:06 2 couple years. Then I had a change of shift and
10:29:10 3 went back to robberies. Then my last four
10:29:14 4 years I finished in homicide.

10:29:15 5 Q And what shift did you finish in homicide?

10:29:20 6 A Day shift, 8:00 a.m. to 12:00 -- or 8:00 a.m.
10:29:26 7 to 4:00 p.m.

10:29:28 8 Q Thank you. You had regular partners when you
10:29:41 9 were assigned to CIB for -- or various regular
10:29:44 10 partners during that time you worked as a
10:29:47 11 detective at the Milwaukee Police Department,
10:29:49 12 correct?

10:29:49 13 A Yes.

10:29:49 14 Q Can you identify some of your -- who your
10:29:52 15 regular partners were?

10:29:53 16 A Kurt Sutter, Raymond Trudell, Gary Temp, and
10:30:12 17 Jim DeValkenaere, Michael Wesolowski, and I
10:30:24 18 believe my last partner was Thomas Fischer.

10:30:27 19 Q Thank you. When -- of the regular partners
10:30:36 20 you've just identified, which ones of them did
10:30:39 21 you work homicides with?

10:30:41 22 A Sutter, DeValkenaere, Temp, Wesolowski, and
10:30:53 23 Fischer.

10:30:54 24 Q Okay. Are you still in communication with
10:31:10 25 Michael Wesolowski, your former partner?

10:31:13 1 A He's deceased.

10:31:15 2 Q Oh, he is? I'm sorry to hear that.

10:31:18 3 A Thank you.

10:31:19 4 Q I deposed him. I met him in the Ott case. So

10:31:27 5 I'm sorry to hear that.

10:31:27 6 A Hm-hm.

10:31:29 7 Q How about Jim DeValkenaere? Are you still in

10:31:32 8 contact with him?

10:31:33 9 A No.

10:31:33 10 Q How about Gary Temp?

10:31:36 11 A No.

10:31:37 12 Q How about Kurt Sutter?

10:31:40 13 A Once a year we golf together.

10:31:43 14 Q I want to talk to you about the cold case

10:31:58 15 squad. Do you know what I'm talking about?

10:32:00 16 A Yes.

10:32:00 17 Q Okay. Can you define -- or how would you

10:32:04 18 describe the cold case squad?

10:32:06 19 A We would go through open homicides that had

10:32:14 20 come to a dead end and look at the cases and

10:32:19 21 see if there was anything else that may or

10:32:25 22 could have been done, and we would conduct

10:32:27 23 follow-up on those cases.

10:32:30 24 Q The -- the cold case squad, it came into

10:32:38 25 existence for the first time as part of the

10:32:41 1 detective -- well, strike that.

10:32:42 2 Was the cold case squad just
10:32:46 3 pertaining to homicides?

10:32:47 4 A Yes.

10:32:47 5 Q Okay. And when the cold case squad first came
10:32:50 6 into existence, that was right at or shortly
10:32:53 7 before the time of the Payne homicide in
10:32:54 8 October '95, right?

10:32:56 9 A Yes.

10:32:56 10 Q And you were one of the first members of that
10:32:59 11 cold case squad?

10:33:01 12 A Yes.

10:33:01 13 Q Along with Jim DeValkenaere?

10:33:03 14 A Yes.

10:33:03 15 Q Gary Temp?

10:33:04 16 A Yes.

10:33:04 17 Q And is it Eric Moore?

10:33:07 18 A Yes.

10:33:07 19 Q Okay. Was that the total of the first
10:33:11 20 iteration of the cold case squad?

10:33:12 21 A As I recall, yes.

10:33:14 22 Q How -- and is it fair to say that you were
10:33:16 23 assigned -- all of those four were assigned to
10:33:19 24 the -- detectives were assigned to the cold
10:33:21 25 case squad, but you would also have assignments

10:33:25 1 on active homicides that weren't cold
10:33:28 2 simultaneously with your cold case assignments?
10:33:31 3 A As I recall, if we were needed, we could go to
10:33:34 4 other assignments, yes.
10:33:34 5 Q Okay. But your involvement -- is it accurate
10:33:36 6 to say that your involvement on the Payne
10:33:38 7 homicide was you got assigned to it as part of
10:33:42 8 your initial cold case investigations?
10:33:45 9 A Yes, we -- we took on that case.
10:33:48 10 Q Okay. Was that the first case you and Jim
10:33:51 11 DeValkenaere took on as a cold case squad case?
10:33:54 12 A I don't recall.
10:33:55 13 Q Okay. But it was at least one of the very
10:33:57 14 first?
10:33:58 15 A Yes.
10:33:58 16 Q Who -- sorry. Who determined or made the
10:34:07 17 assignments to look into certain cold cases?
10:34:11 18 Was it you as the detectives or one of your
10:34:14 19 supervisors?
10:34:14 20 A We -- we chose the cases we wanted to look at.
10:34:18 21 Q So you, Jim DeValkenaere, Eric Moore, and Gary
10:34:24 22 Temp would decide the cases you wanted to work
10:34:27 23 on?
10:34:27 24 A Yes.
10:34:27 25 Q Okay. Would you have to get a supervisor's

10:34:30 1 approval?

10:34:31 2 A We would touch base with a supervisor to let
10:34:35 3 him know what we were doing.

10:34:37 4 Q I'm sorry. For the selection of what case you
10:34:40 5 were going to investigate as a cold case, did
10:34:43 6 you have to get a supervisor's sign-off?

10:34:47 7 A I wouldn't say we had to get a sign-off, no.

10:34:53 8 Q So it's fair -- is your testimony that you and
10:34:57 9 one of the other cold case squad detectives
10:35:01 10 could decide what cases you wanted to
10:35:02 11 investigate as a cold case and you would just
10:35:04 12 let your supervisor know; you didn't have to
10:35:06 13 get their approval?

10:35:07 14 A Correct.

10:35:07 15 Q Okay. In your previous deposition in the Ott
10:35:12 16 matter, you identified the captain of the
10:35:15 17 cold -- for the cold case squad to be Captain
10:35:21 18 Domagalski; is that right?

10:35:23 19 A Yes.

10:35:23 20 Q And you had identified the lieutenants as
10:35:27 21 Lieutenant Susik, Lieutenant Kane, and
10:35:30 22 Lieutenant Ardis. Does that sound right to
10:35:34 23 you?

10:35:34 24 A Yes.

10:35:35 25 Q Okay. Other than the Payne case, do you

10:35:43 1 remember any of the other cases you
10:35:44 2 investigated as part of the cold case squad?
10:35:48 3 A I really don't, no.
10:35:49 4 Q Okay. Do you remember as you sit here today --
10:35:52 5 and, again, it's a long time ago. I understand
10:35:54 6 that. So if you don't remember, just let me
10:35:57 7 know. But do you remember how long you were
10:35:59 8 part of the cold case squad?
10:36:01 9 A Maybe about a year.
10:36:06 10 Q Did the squad keep existing after you left
10:36:10 11 after that year and have other people assigned
10:36:13 12 to it?
10:36:14 13 A I don't recall.
10:36:14 14 Q Okay. You previously testified that you and --
10:36:20 15 well, I think you previously testified that you
10:36:22 16 and Jim DeValkenaere were partners during that
10:36:24 17 time period; is that right?
10:36:25 18 A Yes.
10:36:25 19 Q Okay. And was it that Gary Temp and Eric Moore
10:36:30 20 worked together?
10:36:32 21 A I don't recall if they worked together.
10:36:37 22 Q Okay. Thank you. I think you previously
10:36:41 23 testified that you and Jim DeValkenaere had
10:36:45 24 worked on approximately four to five cases as
10:36:48 25 cold cases. Does that sound right to you

10:36:51 1 still?

10:36:51 2 A I really don't recall.

10:36:52 3 Q Okay. You have no reason as you sit here today
10:36:55 4 to doubt your prior testimony, though?

10:36:57 5 A No, I don't.

10:36:57 6 Q Okay. I want to talk to you about what you
10:37:14 7 remember or don't remember about your
10:37:18 8 investigative work on the Payne homicide
10:37:20 9 investigation, but before I do, I want to have
10:37:22 10 an understanding of whether you have an
10:37:24 11 independent recollection of any of your
10:37:27 12 investigatory work on the Payne homicide. Do
10:37:30 13 you know what I mean when I say "independent
10:37:32 14 recollection"?

10:37:32 15 A Yes.

10:37:32 16 Q Okay. And what do you think I mean by it, or
10:37:36 17 what do you mean by it?

10:37:37 18 A As I sit here today, do I remember certain
10:37:41 19 events of that investigation.

10:37:42 20 Q Yes. Okay. And so do you have an independent
10:37:45 21 recollection of certain events in that
10:37:48 22 investigation?

10:37:48 23 A Yes.

10:37:48 24 Q Can you identify for me what events of the
10:37:52 25 Payne homicide you have an independent

10:37:54 1 recollection of?

10:37:56 2 A The investigation involving Richard Gwin, Sam
10:38:04 3 Hadaway, and Chaunte Ott.

10:38:11 4 Q Okay. Before you reviewed the records a couple
10:38:16 5 weeks ago pertaining to Mr. Hadaway's statement
10:38:18 6 to you, did you have an independent
10:38:21 7 recollection before you reviewed those
10:38:22 8 documents?

10:38:24 9 A Limited.

10:38:25 10 Q Did reviewing the documents refresh your
10:38:27 11 recollection?

10:38:28 12 A Yes.

10:38:29 13 Q The -- you didn't review any documents
10:38:33 14 pertaining to Richard Gwin a couple weeks ago
10:38:37 15 getting ready for your deposition. So do
10:38:39 16 you -- as you sit here today, you have a
10:38:41 17 recollection of some of your involvement with
10:38:43 18 Richard Gwin?

10:38:45 19 A Yes.

10:38:45 20 Q Okay. And then did you -- I don't think you
10:38:48 21 identified any documents pertaining to Mr. Ott
10:38:50 22 that you looked at a couple weeks ago; is that
10:38:53 23 right?

10:38:53 24 A I did not look at anything pertaining to
10:38:55 25 Mr. Ott.

10:38:55 1 Q Okay. But as you sit here today, you have an
10:38:58 2 independent recollection of some of your
10:39:00 3 interactions with Mr. Ott?

10:39:01 4 A Yes.

10:39:02 5 Q Okay. Let's start with Mr. Gwin. What do you
10:39:10 6 have an independent recollection of regarding
10:39:12 7 your involvement with Mr. Gwin during the Payne
10:39:16 8 homicide investigation?

10:39:17 9 A That there was a person who came forward
10:39:26 10 indicating that a subject by the name of Cortez
10:39:33 11 had a girl with him and he was going to sell
10:39:38 12 her. I guess it was a white girl, and he was
10:39:43 13 going to sell her. And it was around the time
10:39:47 14 when Jessica Payne -- the Jessica Payne
10:39:54 15 investigation was going on.

10:39:57 16 So we attempted to identify the
10:40:01 17 person Cortez who subsequently ended up being
10:40:07 18 Richard Gwin, and we brought him down for
10:40:15 19 questioning. And at one point during the
10:40:19 20 questioning, he gave a statement that he was
10:40:22 21 with Sam Hadaway, Chaunte Ott, and a white girl
10:40:28 22 in his car, that they bought and smoked some
10:40:33 23 weed, that they ended up on 7th and Burleigh,
10:40:38 24 in that area, that Chaunte Ott and Sam Hadaway
10:40:43 25 left with the girl and walked behind a house,

10:40:47 1 and that he remained in the car smoking his
10:40:51 2 weed. And then at one point Hadaway and Ott
10:40:57 3 returned to the car without the girl and that
10:41:00 4 he drove off with them, and he eventually drove
10:41:06 5 them to Hadaway's house and dropped them off.

10:41:08 6 Q Okay. And what you've just testified to, you
10:41:14 7 have an independent recollection of that
10:41:16 8 statement Mr. Gwin gave to you and your
10:41:20 9 partner, James DeValkenaere, independent of any
10:41:23 10 document?

10:41:25 11 A Yes.

10:41:25 12 Q How is it that you have that memory?

10:41:31 13 A When I read Hadaway's statement, it refreshed
10:41:37 14 my recollection.

10:41:38 15 Q Okay. So prior to reading Mr. Hadaway's
10:41:42 16 written statement that you and your partner,
10:41:45 17 James DeValkenaere, obtained from him, you
10:41:47 18 didn't have a detailed memory of the statement
10:41:51 19 Mr. Gwin had provided to you, correct?

10:41:54 20 A Right.

10:41:54 21 Q Okay. Do you recall that Mr. Gwin -- you had
10:41:59 22 two interviews with Mr. Gwin?

10:42:02 23 A I don't recall that. I don't know how many
10:42:05 24 times we talked to him.

10:42:06 25 Q Okay. As you sit here today, do you have an

10:42:11 1 independent recollection of any of the
10:42:13 2 circumstances on how Mr. Gwin came to CIB to be
10:42:18 3 interviewed by you and your partner?

10:42:21 4 A We brought him to -- or no. No, I don't
10:42:25 5 remember.

10:42:25 6 Q Okay. I want to go back before I -- well,
10:42:48 7 strike that.

10:42:48 8 Before I move forward, have you told
10:42:52 9 me everything that is your independent memory
10:42:55 10 as you sit here today of your interactions with
10:42:56 11 Richard Gwin?

10:42:57 12 A Yes.

10:42:57 13 Q Okay. Do you remember how old Mr. Gwin was at
10:43:03 14 the time that you were interrogating him in the
10:43:07 15 Payne homicide investigation?

10:43:08 16 A I do not recall.

10:43:10 17 Q As you sit here today, do you have a memory of
10:43:18 18 whether Mr. Gwin was in your -- was in what was
10:43:22 19 a custodial interrogation at the time he gave
10:43:25 20 the statement that you recall him giving?

10:43:32 21 A I don't recall.

10:43:33 22 Q I want to backtrack for just a minute back to
10:43:39 23 when you and James DeValkenaere decided to take
10:43:43 24 on the Payne homicide investigation as one of
10:43:45 25 the first cold cases you were going to

10:43:49 1 investigate, okay?

10:43:50 2 A Okay.

10:43:50 3 Q Was that your decision or James's decision or
10:43:54 4 both of your decisions to investigate it as a
10:43:57 5 cold case?

10:43:58 6 A Jim had worked on that case previously in
10:44:02 7 regular homicide and wanted to revisit the
10:44:07 8 case.

10:44:08 9 Q Did you support him in that or agree with his
10:44:16 10 decision to take it on as a cold case?

10:44:19 11 A Yes.

10:44:19 12 Q I guess by the very nature of it being worked
10:44:29 13 up as a cold case, the case had gone cold,
10:44:32 14 right?

10:44:34 15 A It wasn't your typical cold case. It was only
10:44:38 16 a couple months old, but Jim knew there was
10:44:43 17 some follow-up that needed to be done that
10:44:46 18 hadn't been done, and he wanted to look into
10:44:48 19 that.

10:44:49 20 Q But at the -- is it fair to say that at the
10:44:57 21 time that you and Jim took it on as a cold case
10:45:00 22 there were not any active leads being
10:45:02 23 investigated by the homicide unit?

10:45:04 24 A To my knowledge, yes.

10:45:05 25 Q Okay. And so in that regard, there weren't any

10:45:10 1 suspects being actively investigated, correct?

10:45:13 2 A No.

10:45:13 3 Q And at that point there weren't -- wasn't any
10:45:17 4 physical evidence that was being followed up
10:45:21 5 on, either, right?

10:45:23 6 A What do you mean by "physical evidence"?

10:45:24 7 Q Like, there was no physical evidence that still
10:45:27 8 needed to be tested or analyzed that was --
10:45:29 9 everything had sort of been done up until that
10:45:32 10 point?

10:45:32 11 A I don't recall.

10:45:33 12 Q Okay. Do you recall, as you sit here today,
10:45:45 13 what the follow-up information -- or, sorry,
10:45:50 14 strike that. That was a bad question.

10:45:52 15 Do you recall, as you sit here today,
10:45:54 16 what Jim DeValkenaere wanted to follow up on
10:45:57 17 with respect to the Payne homicide
10:46:00 18 investigation?

10:46:00 19 A The -- trying to identify and locate the person
10:46:03 20 named Cortez.

10:46:04 21 Q Do you recall, as you sit here today, why Jim
10:46:08 22 DeValkenaere wanted to try and identify and
10:46:12 23 locate the person named Cortez?

10:46:14 24 A No.

10:46:17 25 Q When you testified earlier in the Ott case in

10:46:29 1 your deposition in that case, you indicated
10:46:31 2 that you read all of the reports in the Payne
10:46:35 3 homicide investigation when you first got
10:46:37 4 involved as a cold case. Do you remember that
10:46:39 5 testimony?

10:46:39 6 A Yes.

10:46:40 7 Q Okay. And is that true?

10:46:41 8 A Yes.

10:46:42 9 Q Okay. So before -- is that true that before
10:46:45 10 you took any steps and went out and tried to
10:46:48 11 find Cortez you reviewed the M file as it
10:46:52 12 existed at that time?

10:46:53 13 A Yes.

10:46:53 14 Q Okay. And why did you do that?

10:46:56 15 A So I was up to speed on the case and that I was
10:47:00 16 familiar with the case.

10:47:01 17 Q Okay. Do you have an independent recollection
10:47:11 18 as you sit here today of the facts of Jessica
10:47:15 19 Payne's homicide?

10:47:19 20 A Very limited.

10:47:20 21 Q Okay. What -- what is your limited memory of
10:47:23 22 that homicide?

10:47:24 23 A That Jessica Payne was a runaway from South
10:47:29 24 Milwaukee, that she ended up on the north side
10:47:33 25 of Milwaukee where she was staying in a drug

10:47:38 1 house, that her body was found behind a vacant
10:47:46 2 house either on a mattress or under a mattress,
10:47:53 3 and that her throat had been slashed.

10:47:56 4 Q Anything else?

10:47:59 5 A No.

10:47:59 6 Q Do you recall the -- there had also been
10:48:22 7 evidence of prostitution in the house where
10:48:26 8 Ms. Payne was staying?

10:48:27 9 A Yes.

10:48:33 10 Q Okay. And do you have an independent
10:48:38 11 recollection as you sit here today whether you
10:48:41 12 and your partner, Jim DeValkenaere, also were
10:48:45 13 investigating Ms. Payne's homicide as a
10:48:48 14 possible sexual assault as well as a homicide?

10:48:56 15 A No.

10:48:58 16 Q Okay. Meaning "No," you do not recall, or
10:49:03 17 "No," you did not investigate it as a sexual
10:49:06 18 assault?

10:49:06 19 A We wouldn't have investigated the sexual
10:49:11 20 assault.

10:49:11 21 Q Why not?

10:49:12 22 A That would have already been done during the
10:49:15 23 initial investigation.

10:49:16 24 Q But in your review of your -- the records, you
10:49:23 25 would have reviewed that a sexual assault kit

10:49:25 1 was collected from Ms. Payne, right?

10:49:28 2 A Yes.

10:49:28 3 Q And do you remember -- you don't remember
10:49:33 4 the -- well, do you remember now whether her
10:49:37 5 body was found clothed or partially clothed?

10:49:40 6 A Partially clothed.

10:49:42 7 Q Do you remember how she was partially clothed?

10:49:46 8 A Her shirt was pulled up, and her pants were
10:49:51 9 pulled down.

10:49:52 10 Q Okay. Did your review of the way in which
10:50:04 11 Ms. Payne's body was found indicate to you that
10:50:07 12 there was a possibility she had been the victim
10:50:09 13 of a sexual assault or an attempted sexual
10:50:12 14 assault?

10:50:12 15 A Definitely could have been.

10:50:15 16 Q Do you also have a memory of the medical
10:50:28 17 examiner identifying an unidentified white
10:50:32 18 substance in her vagina?

10:50:41 19 A Yes.

10:50:41 20 Q Okay. I believe you also testified in your
10:51:00 21 prior deposition in the Ott case that in
10:51:03 22 addition to reading the police reports, you
10:51:05 23 also would have read the medical -- you did
10:51:08 24 read the medical examiner's report before your
10:51:11 25 involvement in investigating the Payne

10:51:12 1 homicide. Is that -- do you remember that?

10:51:17 2 A Yes.

10:51:17 3 Q Okay. And why would you read the medical
10:51:20 4 examiner's report?

10:51:21 5 A It's all part of the file, and I read the whole
10:51:25 6 file.

10:51:25 7 Q Okay. When you became a detective in the
10:51:39 8 Milwaukee Police Department in April 1991, did
10:51:42 9 you go to a detective training academy for some
10:51:45 10 portion of time before being -- working as a
10:51:48 11 detective?

10:51:49 12 A Yes.

10:51:49 13 Q How long was the detective academy back in
10:51:53 14 1991?

10:51:53 15 A It was 80 hours.

10:51:56 16 Q Was it 80 hours classroom?

10:51:59 17 A Yes.

10:51:59 18 Q Was that conducted here in Milwaukee?

10:52:02 19 A Yes.

10:52:03 20 Q Were you given training on how to conduct
10:52:07 21 interrogations of suspects?

10:52:13 22 A No.

10:52:13 23 Q Were you given any training on how to interview
10:52:18 24 suspects?

10:52:20 25 A No.

10:52:20 1 Q Were you given any training on how to take a
10:52:25 2 statement from a witness or suspect?

10:52:29 3 A No.

10:52:29 4 Q Do you remember the subject matter of any of
10:52:38 5 the 80 hours of training you were provided when
10:52:40 6 you were promoted to a detective by the
10:52:42 7 Milwaukee Police Department?

10:52:43 8 A Yes.

10:52:46 9 Q What subject matters do you recall being
10:52:49 10 trained on?

10:52:50 11 A It was crime scene investigations on various
10:52:57 12 crimes. They set up scenarios for homicides
10:53:02 13 and robberies and arson. So it was how to
10:53:09 14 conduct a crime scene investigation.

10:53:11 15 Q Anything else that you recall?

10:53:16 16 A No.

10:53:17 17 Q Did they provide any training on how to prepare
10:53:21 18 reports as a detective?

10:53:25 19 A As a police officer, I already knew how to
10:53:28 20 prepare reports and how to conduct interviews,
10:53:30 21 and they didn't provide that specially, no.

10:53:37 22 Q Okay. Is it fair to say during this time
10:53:40 23 period as a detective, the reports would be
10:53:43 24 dictated and called in on a phone line and then
10:53:46 25 there'd be a stenographer to type it up and

10:53:48 1 send it back typed up for the detective to
10:53:50 2 review?
10:53:50 3 A Yes.
10:53:50 4 Q But that wasn't true on patrol; is that right?
10:53:53 5 A No.
10:53:53 6 Q Patrol you just wrote your own reports?
10:53:56 7 A Correct.
10:53:56 8 Q Okay. So at the detective academy they didn't
10:53:59 9 give you any training on how to dictate
10:54:01 10 reports?
10:54:02 11 A No, not that I recall.
10:54:04 12 Q That was something you learned on the job once
10:54:07 13 you got your assignment?
10:54:08 14 A Yes.
10:54:08 15 Q Okay. Once you're on the job and you got
10:54:11 16 assigned -- well, strike that.
10:54:14 17 Do you remember who told you how to
10:54:16 18 dictate your reports as a detective?
10:54:17 19 A No.
10:54:17 20 Q Were you given any training on the job about
10:54:21 21 what you were supposed to do with the notes you
10:54:24 22 took that were turned into a supplementary
10:54:27 23 report dictated through the phone line that
10:54:30 24 then came back to you?
10:54:31 25 A Was I told what to do with my --

10:54:34 1 Q Yes.

10:54:35 2 A No.

10:54:35 3 Q What did you do with your -- well, is it fair

10:54:40 4 to say you used to take notes on, like, a steno

10:54:40 5 pad or some other pad when you were out in the

10:54:42 6 field as a detective?

10:54:43 7 A Yes.

10:54:43 8 Q And that was true when you were a homicide

10:54:45 9 detective?

10:54:46 10 A Yes.

10:54:46 11 Q Did you ever take notes as a homicide detective

10:54:48 12 in one of your department-issued memo books?

10:54:51 13 A No.

10:54:51 14 Q Did you use your memo book as a patrol officer?

10:54:55 15 A Yes.

10:54:55 16 Q Okay. So once you became a detective, you no

10:54:58 17 longer used memo books?

10:55:00 18 A No.

10:55:01 19 Q Did other detectives use memo books?

10:55:03 20 A I don't recall.

10:55:04 21 Q Okay. But your practice was to take notes on a

10:55:07 22 steno pad; is that right?

10:55:08 23 A Yes.

10:55:08 24 Q Okay. What was your practice with respect to

10:55:12 25 keeping those notes?

10:55:14 1 A If I conducted an interview, I would call a
10:55:21 2 report in based off my notes. After the report
10:55:27 3 was typed, I reviewed it for its accuracy, and
10:55:31 4 if it was accurate and consistent with my
10:55:33 5 notes, then I destroyed the notes.

10:55:35 6 Q And were you ever given any instruction one way
10:55:42 7 or the other about maintaining notes as a
10:55:44 8 detective?

10:55:45 9 A No.

10:55:45 10 Q What if you had to -- a report came back once
10:55:52 11 it had been written up by the stenographer and
10:55:54 12 you needed to make changes? What -- how did
10:55:56 13 you do that?

10:55:57 14 A I would go down and talk to the stenographer in
10:56:01 15 person, point out where changes needed to be
10:56:05 16 made. They would make the changes, I'd review
10:56:08 17 them for the accuracy, and then I would keep
10:56:10 18 that report as the report of record.

10:56:12 19 Q Okay. When you said you would keep the report
10:56:15 20 as the report of record, would you keep a
10:56:17 21 personal copy, or it would go in the file?

10:56:20 22 A It would go in the file.

10:56:21 23 Q Were -- were the detectives responsible for
10:56:22 24 turning it into the admin to get it in the
10:56:25 25 file?

10:56:28 1 A We would review the reports and place them in
10:56:33 2 a -- a tray where a clerk would file them.

10:56:35 3 Q Okay. Would the -- would you have to place
10:56:38 4 them in a tray for a supervisor to sign off on
10:56:41 5 them first?

10:56:41 6 A Yes.

10:56:41 7 Q And then you'd have to put them in another tray
10:56:44 8 for the clerk to file once they were signed off
10:56:47 9 on?

10:56:47 10 A The supervisor would put them in so that they
10:56:50 11 could be filed.

10:56:50 12 Q Okay. So the detectives didn't put them in the
10:56:54 13 basket for the clerk to file; they put them in
10:56:57 14 the basket for the supervisor to sign off?

10:56:59 15 A I don't recall.

10:56:59 16 Q Okay. When you went to review -- do you have a
10:57:04 17 memory as you sit here today of reviewing the
10:57:07 18 Payne file when you first took it on as a cold
10:57:10 19 case?

10:57:10 20 A Independent memory of looking at the file? No.

10:57:12 21 Q Okay. But based on your memory of -- general
10:57:17 22 memory of what happened back then, if you
10:57:19 23 wanted to review an M file when you were a
10:57:22 24 homicide detective, what would you do to obtain
10:57:24 25 the file to look at it?

10:57:25 1 A Pull the file off the shelf and look at it.

10:57:30 2 Q Could a detective just go into the room with a

10:57:34 3 murder file -- do you call them "M files," or

10:57:37 4 do you call --

10:57:37 5 A "M file."

10:57:38 6 Q "M file." And "M file" meant "murder file"?

10:57:40 7 A Yes.

10:57:40 8 Q If you wanted to get an M file and look at it,

10:57:44 9 could you just go as a homicide detective and

10:57:47 10 pull it off a shelf, or did you have to check

10:57:49 11 it out from the clerk?

10:57:50 12 A If you were going to remove it from the CIB,

10:57:53 13 you needed to sign it out.

10:57:55 14 Q Okay. Did you ever take M files into the

10:57:58 15 field, like sign them out to take them into the

10:58:01 16 field?

10:58:01 17 A No.

10:58:01 18 Q Would you sign them out to take an M file over

10:58:05 19 to the DA's office for a charging conference?

10:58:09 20 A Yes.

10:58:09 21 Q Or for court?

10:58:10 22 A Yes.

10:58:10 23 Q Okay. Otherwise, if you were going to look at

10:58:12 24 an M file, you did it in the CIB bureau?

10:58:15 25 A Yes.

10:58:15 1 Q I think I said "CIB." CID bureau.

10:58:22 2 Okay. Did you -- I think you just

10:58:41 3 said you never used your memo book as a

10:58:44 4 detective; is that right?

10:58:46 5 A Correct.

10:58:46 6 Q But you maintained your memo books from when

10:58:49 7 you were on patrol for your entire career as a

10:58:51 8 Milwaukee Police Department officer?

10:58:54 9 A After I got promoted, I -- when I retired,

10:59:04 10 that's when all my memo books and everything

10:59:09 11 were destroyed.

10:59:10 12 Q Your memo books and everything? What else

10:59:13 13 was -- did you destroy other than the memo

10:59:15 14 books?

10:59:15 15 A My memo books.

10:59:16 16 Q Okay. And you burnt them, right?

10:59:18 17 A Yes.

10:59:18 18 Q Where did you burn them?

10:59:20 19 A In a fire.

10:59:23 20 Q Where was the fire?

10:59:26 21 A In my backyard.

10:59:27 22 Q Okay. How long after your retirement did you

10:59:30 23 burn your memo books?

10:59:32 24 A I don't recall. It was recently after I

10:59:40 25 retired.

10:59:41 1 Q Okay. Do you need a break, or are you okay?

10:59:53 2 A I'm okay.

10:59:54 3 Q Okay. I believe you just testified that you
11:00:05 4 did not receive any training with respect to
11:00:08 5 interviewing witnesses or suspects or
11:00:11 6 interrogations at the detective academy when
11:00:14 7 you were promoted, true?

11:00:16 8 A Not that I can recall.

11:00:17 9 Q Okay. But you did receive some of that
11:00:20 10 training back at the original police academy
11:00:23 11 when you attended?

11:00:25 12 A Yes.

11:00:25 13 Q Okay. Do you recall any of the substance that
11:00:30 14 you were provided as a cadet at the academy
11:00:35 15 with respect to how to interview suspects?

11:00:38 16 A No.

11:00:38 17 Q How about with respect to interrogation skills
11:00:41 18 or techniques?

11:00:42 19 A Not that I can recall.

11:00:43 20 Q Do you recall any in-service trainings you
11:00:46 21 received with respect to interrogation
11:00:48 22 techniques?

11:00:49 23 A No.

11:00:49 24 Q Were you ever sent to an outside training?

11:00:56 25 A No.

11:00:56 1 Q Do you know the term "Reid technique" from John
11:01:04 2 Reid & Associates?

11:01:05 3 A I've heard that, yes.

11:01:06 4 Q Did you get any training in the Reid technique
11:01:10 5 of interrogations while you were an officer
11:01:12 6 with the Milwaukee Police Department?

11:01:13 7 A No.

11:01:15 8 Q Were you provided any on-the-job training when
11:01:22 9 you were promoted to detective on how to
11:01:24 10 conduct interrogations?

11:01:27 11 A Yes.

11:01:27 12 Q Do you remember any of the officers or
11:01:30 13 detectives that trained you?

11:01:31 14 A No.

11:01:31 15 Q Do you remember anything that you were told on
11:01:34 16 the job about how to conduct interrogations?

11:01:37 17 A Not that I recall.

11:01:39 18 Q Do you recall any of the -- do they call them
11:01:47 19 "general orders" up here? I forget. I use the
11:01:49 20 Chicago term. What are the orders called that
11:01:53 21 direct Milwaukee Police Department's -- the
11:01:58 22 directives or the orders that direct your
11:02:00 23 officers' conduct? Do you have a name for
11:02:03 24 that? Like, the policies and procedures?

11:02:06 25 A Rules and regulations.

11:02:07 1 Q Rules and regulations. Okay. I'm sorry. I
11:02:10 2 was using the Chicago term.

11:02:12 3 Do you remember, as you sit here
11:02:14 4 today, any of the Milwaukee Police Department's
11:02:16 5 rules and regulations pertaining to
11:02:19 6 interrogations?

11:02:20 7 A No.

11:02:20 8 Q How about any of the rules and regulations
11:02:23 9 pertaining to custodial interrogations?

11:02:26 10 A No.

11:02:26 11 Q Okay. So back to your training, you don't
11:02:37 12 remember any of the detectives who trained you
11:02:39 13 on interrogation skills or techniques, and did
11:02:42 14 I ask you, do you remember anything of the
11:02:45 15 substance you were taught?

11:02:46 16 A And I don't -- I do not recall.

11:02:48 17 Q Okay. As a homicide detective, did you have a
11:03:21 18 personal practice in how you conducted
11:03:24 19 interrogations of possible suspects with
11:03:26 20 respect to how you -- well, strike that. Let
11:03:31 21 me try again.

11:03:31 22 When you were a homicide detective
11:03:36 23 with the Milwaukee Police Department, did you
11:03:40 24 have a personal practice with respect to how
11:03:42 25 you treated non-public facts about the homicide

11:03:47 1 when you were interrogating suspects?

11:03:52 2 A I don't understand the question.

11:03:53 3 Q Thanks for letting me know. It maybe wasn't

11:03:57 4 clear. Do you understand the phrase

11:03:58 5 "non-public facts"?

11:04:02 6 A No.

11:04:02 7 Q No. Okay. So you know when you're

11:04:05 8 investigating a homicide, there's details about

11:04:07 9 how the crime occurred -- maybe the weapon

11:04:09 10 used, where the injuries are on the body, where

11:04:11 11 the body was found -- that isn't reported in

11:04:15 12 the news or generally known. I'm referring to

11:04:17 13 that as, like, a non-public fact, something

11:04:19 14 that only the investigators and the perpetrator

11:04:26 15 would know.

11:04:27 16 A Okay.

11:04:27 17 Q Do you understand what I'm saying now?

11:04:29 18 A Yes.

11:04:29 19 Q So, for example, if you're an investigating a

11:04:33 20 homicide of a missing person and you're

11:04:38 21 interrogating a suspect and the suspect can

11:04:40 22 take you to the body, that's good evidence that

11:04:43 23 that's the perpetrator, right?

11:04:45 24 A Yes.

11:04:45 25 Q Okay. Similarly, if you're interrogating

11:04:50 1 somebody and they know a specific detail about
11:04:53 2 injuries to the victim or something about the
11:04:55 3 crime scene, that helps the investigator
11:04:59 4 understand that this is the -- the suspect
11:05:01 5 they're interrogating is the perpetrator,
11:05:03 6 right?

11:05:03 7 A Yes.

11:05:04 8 Q So did you have a practice with respect to how
11:05:06 9 you treated non-public facts in the context of
11:05:10 10 your interrogation of a suspect in a homicide?

11:05:13 11 A I would keep them private.

11:05:18 12 Q And why would you keep them private?

11:05:23 13 A If I was conducting an interrogation, I would
11:05:26 14 want to hear it from the person I'm
11:05:28 15 interrogating.

11:05:31 16 Q Did you make efforts to try and determine what
11:05:36 17 facts were known in the public either through
11:05:38 18 the news or through people who had found a
11:05:42 19 victim and it was generally known in the
11:05:44 20 neighborhood, would you try and figure out what
11:05:46 21 was sort of known and not known?

11:05:48 22 A I'm sorry, again I don't understand.

11:05:50 23 Q Oh, I'm sorry. That's a bad question. Thank
11:05:52 24 you. I'm sorry. Did you ever make any effort
11:05:55 25 to try and determine what facts were known

11:05:57 1 publicly either because reported in the news or
11:05:59 2 known in the neighborhood where the crime
11:06:01 3 occurred and those that were truly non-public
11:06:06 4 facts, known only to the investigators and the
11:06:09 5 perpetrator?

11:06:09 6 A Now, we're talking the Payne homicide?

11:06:11 7 Q I was talking in general, but -- I was talking
11:06:16 8 in general.

11:06:17 9 A In general?

11:06:17 10 Q Yep.

11:06:19 11 A Could you repeat the question again?

11:06:22 12 Q Yeah, no problem. I'm -- I'm sorry that
11:06:25 13 they're not clear. I think that's my fault.
11:06:28 14 Did you have a general practice with respect to
11:06:30 15 when you were interrogating a suspect in a
11:06:33 16 homicide investigation to try and determine
11:06:36 17 before you interrogated the suspect what facts
11:06:38 18 were known publicly about the crime and what
11:06:41 19 weren't known publicly about the crime?

11:06:44 20 A Yes.

11:06:44 21 Q And why would you do that?

11:06:46 22 A So that you would have knowledge of the crime
11:06:55 23 and you -- I would not share that knowledge
11:06:57 24 with the person I was interrogating because I
11:07:01 25 would want to hear it from that person. If

11:07:02 1 they did have knowledge, I wanted to hear it
11:07:05 2 from them.

11:07:06 3 Q Would you ever use a non-public fact to test
11:07:11 4 whether the suspect had knowledge or not?
11:07:13 5 Would you ever do that in the context of an
11:07:15 6 interrogation?

11:07:16 7 A Yes.

11:07:18 8 Q So sometimes you would use a non-public fact to
11:07:20 9 try and tease out whether the person had
11:07:24 10 knowledge or not?

11:07:25 11 A I'm allowed to, yes.

11:07:26 12 Q Okay. So is it fair you sometimes did that
11:07:33 13 from time to time?

11:07:33 14 A I don't recall how many times.

11:07:35 15 Q I'm just saying sometimes -- you did do that on
11:07:38 16 occasion, correct?

11:07:41 17 A I don't recall.

11:07:44 18 Q I'm not asking how many times you did it; I'm
11:07:47 19 just saying your testimony is that you
11:07:49 20 occasionally would use a non-public fact in the
11:07:52 21 context of an interrogation to try and
11:07:54 22 determine whether the person was a perpetrator
11:07:56 23 or not?

11:07:57 24 A I recall that I could. I do not recall if I
11:08:03 25 did or when I did.

11:08:04 1 Q How do you recall that you could do that?

11:08:07 2 A I'm allowed to use trickery when talking to a

11:08:14 3 person that I'm interrogating.

11:08:15 4 Q Okay. And what -- when you use the term

11:08:23 5 "trickery," was that ever defined for you, what

11:08:29 6 you could do and what you couldn't do?

11:08:31 7 A When would -- when would it have been defined

11:08:40 8 to me?

11:08:40 9 Q Yeah, or was it ever defined to you, like, what

11:08:44 10 are some tools you can use as trickery that

11:08:46 11 were permissible. You're saying that you

11:08:51 12 were -- you recall that you could do that, that

11:08:51 13 you were allowed to use trickery when you were

11:08:51 14 interrogating a person, and I was just asking

11:08:52 15 you to define what you mean by "trickery."

11:08:54 16 A Giving them facts that were not necessarily

11:09:01 17 true.

11:09:06 18 Q So you could give false facts?

11:09:08 19 A Yes.

11:09:13 20 Q Could you also use non-public facts that were

11:09:20 21 known about the crime that were true to

11:09:24 22 determine whether or not you were talking to

11:09:25 23 the perpetrator of the crime?

11:09:30 24 A Again, if it were facts that would lead to a

11:09:36 25 person being suspected of the crime, I wouldn't

11:09:42 1 give them those facts until that person gave
11:09:46 2 them to me.

11:09:48 3 Q Before you interviewed Mr. Richard Gwin in the
11:10:17 4 Payne homicide, you had reviewed all the
11:10:22 5 investigatory reports, right?

11:10:24 6 A Yes.

11:10:25 7 Q And the medical examiner's reports, right?

11:10:32 8 A Anything that was in that file.

11:10:32 9 Q Would the crime scene photographs have also
11:10:35 10 been in that file, in the M file?

11:10:36 11 A Yes.

11:10:36 12 Q So you also reviewed all the crime scene
11:10:38 13 photographs of the Payne homicide
11:10:40 14 investigation, right?

11:10:41 15 A Yes.

11:10:41 16 Q And that was something -- you would have seen
11:10:43 17 those photographs prior to your interactions
11:10:46 18 with Mr. Gwin in October 1995, right?

11:10:48 19 A Yes.

11:10:48 20 Q Okay. And so prior to your efforts to locate
11:10:57 21 and identify Cortez, you knew who the victim
11:11:03 22 was, Jessica Payne, right?

11:11:05 23 A Yes.

11:11:05 24 Q You knew the date her body was found?

11:11:07 25 A Yes.

11:11:07 1 Q You knew the location that she was found,
11:11:10 2 behind the house?

11:11:12 3 A Yes.

11:11:13 4 Q You knew that she was found underneath a stack
11:11:16 5 of mattresses?

11:11:17 6 A Yes.

11:11:18 7 Q You knew that she was found with her shirt up,
11:11:22 8 right?

11:11:23 9 A Yes.

11:11:23 10 Q You knew that she was wearing a green bra and
11:11:25 11 it was torn?

11:11:26 12 A That I don't recall.

11:11:27 13 Q Okay. But you would have known that based on
11:11:30 14 your review of the photographs and the records,
11:11:33 15 right?

11:11:33 16 A Yes.

11:11:33 17 Q And you knew that she was found with her pants
11:11:36 18 pulled down, right?

11:11:37 19 A Yes.

11:11:37 20 Q You knew that she was identified as having some
11:11:42 21 tattoos on her body, right?

11:11:45 22 A I would have known then. I don't recall that
11:11:47 23 now.

11:11:47 24 Q Sure. You knew all of the evidence of injury
11:11:55 25 to her body that the medical examiner had

11:11:58 1 identified, right?

11:11:59 2 A Yes.

11:12:00 3 Q Okay. And so you knew that she had -- her neck

11:12:07 4 had been cut, right?

11:12:09 5 A Yes.

11:12:09 6 Q You knew there was some bruising on her hands,

11:12:12 7 right?

11:12:15 8 A If it was in the reports, then I would have

11:12:18 9 known about it.

11:12:18 10 Q Okay. You knew there was some bruising on her

11:12:21 11 legs, both the anterior and the post

11:12:24 12 internal -- inside of her leg and outside of

11:12:25 13 her leg, right?

11:12:26 14 A I don't recall now, but if it was in the

11:12:33 15 reports, then I'm sure I reviewed it.

11:12:36 16 Q Okay. And you had knowledge in terms of what

11:12:46 17 was reported about Ms. Payne's whereabouts

11:12:49 18 until she was found; you had knowledge about

11:12:52 19 where she had been staying and some of the

11:12:54 20 people she had been with as well, right?

11:12:56 21 A Yes.

11:12:56 22 Q Okay. Okay. You said earlier that you had a

11:13:24 23 limited but independent recollection of your

11:13:27 24 interactions with Mr. Chaunte Ott, right?

11:13:30 25 A Yes.

11:13:31 1 Q Can you please describe for me your independent
11:13:34 2 recollections of your interactions with Chaunte
11:13:37 3 Ott during the Payne homicide investigation?
11:13:39 4 A We met with him in an interview room.
11:13:44 5 Q At the CIB?
11:13:45 6 A In the CIB. And I remember him being very
11:13:53 7 smug, and he denied any knowledge or
11:13:58 8 involvement.
11:14:00 9 Q Can you describe for me what Mr. -- you recall
11:14:11 10 Mr. Ott saying or doing that made you interpret
11:14:18 11 him as being very smug?
11:14:19 12 A He was chuckling and laughing.
11:14:21 13 Q Anything else?
11:14:26 14 A No.
11:14:31 15 Q Do you have an independent recollection of how
11:14:33 16 long you spoke to Mr. Ott?
11:14:34 17 A No.
11:14:37 18 Q Do you have an independent memory of the
11:14:40 19 charging conference for Mr. Ott and Mr. Hadaway
11:14:44 20 that was conducted at the district attorney's
11:14:46 21 office with Mark Williams?
11:14:48 22 A Somewhat.
11:14:49 23 Q What's your independent recollection of the
11:14:51 24 charging conference with Mark Williams for
11:14:55 25 Mr. Hadaway and Mr. Ott?

11:14:56 1 A I know that Mr. Hadaway was brought in to talk
11:15:03 2 to Mr. Williams and that he was provided
11:15:06 3 counsel for the interview and that Hadaway
11:15:16 4 confirmed that what he told us was the truth,
11:15:21 5 and he went to relay that statement back to
11:15:26 6 Mr. Williams.

11:15:27 7 Q Do you have an independent recollection of you
11:15:33 8 and -- you taking Mr. Hadaway to be polygraphed
11:15:38 9 after the charging conference?

11:15:41 10 A I know that he was polygraphed. I don't know
11:15:44 11 if I took him there. I don't recall that.

11:15:47 12 Q Okay. Okay. Do you remember Mr. Gwin being
11:15:54 13 part of this charging conference?

11:15:58 14 A I don't know at what point Mr. Gwin was brought
11:16:04 15 in to talk to Mr. Williams.

11:16:06 16 Q Okay. Have you told me everything that
11:16:15 17 consists of your independent recollection of
11:16:17 18 your interactions with Mr. Ott?

11:16:18 19 A Yes.

11:16:19 20 Q Okay. Now, you also said you had an
11:16:23 21 independent recollection that had been recently
11:16:27 22 refreshed by your review of the statements
11:16:29 23 Mr. Hadaway gave to you and James DeValkenaere,
11:16:31 24 as well as other detectives: Eric Moore,
11:16:36 25 Detective Dubis, and Detective Percy Moore,

11:16:39 1 right?

11:16:39 2 A Yes.

11:16:39 3 Q Okay. Do you have an independent recollection
11:16:49 4 that before you spoke to Mr. Hadaway that you
11:16:53 5 reviewed the reports or the handwritten
11:16:56 6 statements that Detective Eric Moore, Detective
11:17:01 7 Percy Moore or Dubis had prepared?

11:17:05 8 A I don't recall looking at their statements.

11:17:08 9 Q Is it fair to say that you would have known --
11:17:15 10 you would have read those statements or talked
11:17:16 11 to those detectives to find out what
11:17:20 12 Mr. Hadaway said to them before you spoke to
11:17:22 13 Mr. Hadaway?

11:17:23 14 A Yes.

11:17:23 15 Q And why would you do that, or why did you do
11:17:25 16 that?

11:17:26 17 A So I know what he had told the previous
11:17:30 18 detectives regarding his knowledge or
11:17:33 19 involvement in the investigation.

11:17:36 20 Q Do you remember that after you and James
11:17:41 21 DeValkenaere talked to Richard Gwin that you
11:17:45 22 briefed the next shift and told them to go find
11:17:48 23 Mr. Hadaway and bring him in?

11:17:49 24 A I don't recall that.

11:17:56 25 Q Okay. I'm going to mark your deposition, your

11:18:13 1 first deposition in the Ott case as Exhibit 1
11:18:16 2 and see if it refreshes your recollection,
11:18:18 3 okay?

11:18:18 4 (Discussion off the record.)

11:18:36 5 (Exhibit No. 1 was marked.)

11:18:53 6 MS. DONNELL: Do you want to take a
11:18:55 7 short break, or are you just e-mailing it now?

11:18:59 8 MS. WILLIAMS: I'm just looking for
11:19:02 9 it. It'll just take me a second.

11:19:05 10 MS. GEHLING: You can start. It's
11:19:06 11 fine. You don't have to wait for me.

11:19:08 12 MS. DONNELL: Okay.

11:19:09 13 BY MS. DONNELL:

11:19:09 14 Q Mr. Buschmann, I'm going to hand you what I've
11:19:12 15 designated as Exhibit 1 to your deposition, and
11:19:15 16 Exhibit 1 is the deposition that was taken of
11:19:17 17 you in the Ott versus City of Chicago matter on
11:19:21 18 June 30th, 2010, okay?

11:19:24 19 A Okay.

11:19:24 20 Q And I'm going to call your attention to Page 91
11:19:32 21 of your deposition, and this has four pages, so
11:19:38 22 it's going to be on Page 93.

11:19:44 23 A Page 93?

11:19:46 24 Q 93 of the document, but it's going to be
11:19:48 25 Page 91 of the deposition. It's kind of

11:19:51 1 strange. I'm not sure why. Oh, here. It's
11:19:55 2 about midway through.

11:20:13 3 Okay. So, Mr. Buschmann, I'm just
11:20:15 4 going to have you review your testimony on
11:20:17 5 Page 91 starting at Line 3 going down to Line,
11:20:26 6 let's see, 21, and you can just let me know
11:20:34 7 when you've had a chance to review that
11:20:36 8 testimony.

11:20:50 9 A Okay.

11:20:50 10 Q Does that refresh your recollection that after
11:20:53 11 you and James DeValkenaere drove Mr. Gwin home
11:20:57 12 that you briefed the next shift of detectives
11:20:59 13 to try and locate Mr. Hadaway?

11:21:03 14 A Maybe I'm in the wrong part here.

11:21:06 15 Q Okay.

11:21:08 16 A You said Page --

11:21:09 17 Q Page 91, lines --

11:21:15 18 A Oh.

11:21:15 19 Q Sorry.

11:21:15 20 A I'm on 81.

11:21:15 21 Q Oh, 81?

11:21:16 22 A I'm sorry.

11:21:17 23 Q No problem. That's not a problem. Thanks for
11:21:21 24 letting me know. If you want to just review
11:21:23 25 your testimony on Page 91 of the deposition

11:21:26 1 starting at Line 3 --

11:21:29 2 A Okay.

11:21:30 3 Q -- to, like, Line 23. 21, sorry. 3 to 21.

11:21:35 4 A Okay.

11:21:35 5 Q Okay. Did you have a chance to review your
11:21:38 6 testimony back in 2010?

11:21:39 7 A Yes.

11:21:39 8 Q Does that refresh your recollection that it was
11:21:42 9 you and your partner, DeValkenaere, James
11:21:46 10 DeValkenaere, had briefed the next shift of
11:21:48 11 detectives after you drove Mr. Gwin home?

11:21:51 12 A Yes.

11:21:52 13 Q Okay. Do you, as you sit here -- and I can --
11:21:55 14 you can set that down. We'll just leave it
11:21:56 15 here if we need it. Do you remember anything
11:21:58 16 about that briefing?

11:22:03 17 A No.

11:22:03 18 Q Okay. Generally speaking, can you describe
11:22:07 19 what those briefing -- were there -- sorry,
11:22:10 20 strike that.

11:22:10 21 Were there briefings at the beginning
11:22:14 22 and end of each shift in the detective -- in
11:22:19 23 the homicide unit?

11:22:19 24 A Yes.

11:22:19 25 Q Okay. And what did those briefings consist of?

11:22:22 1 A Any follow-up that had been conducted by the
11:22:25 2 previous shift would be conveyed to the next
11:22:29 3 shift that's going to still be working on the
11:22:31 4 case, and any new information that was obtained
11:22:35 5 by the previous shift would be passed on to the
11:22:38 6 shift that was going to be working on the case.

11:22:40 7 Q So was it common practice that when you were
11:22:43 8 coming on shift you would start your shift by
11:22:46 9 hearing the briefing from the shift going off?

11:22:48 10 A Yes.

11:22:48 11 Q And then it was also common practice that
11:22:51 12 unless you were actively investigating a crime,
11:22:54 13 you'd come back to CIB and participate in the
11:22:57 14 briefing at the end of the shift?

11:22:59 15 A Yes.

11:22:59 16 Q And was the purpose or one of the main reasons
11:23:02 17 of that is to have continuity in investigations
11:23:05 18 and to pass on new information?

11:23:06 19 A Yes.

11:23:06 20 Q And that was because while reports might be
11:23:09 21 getting dictated -- they weren't quite in the
11:23:11 22 file -- you could share information in real
11:23:13 23 time about what had happened through the course
11:23:15 24 of the shift?

11:23:16 25 A Correct.

11:23:16 1 Q Okay. Okay. I was asking you some questions
11:23:38 2 about the training you received or didn't
11:23:43 3 receive about interrogations of suspects. Did
11:23:47 4 you have a -- a general approach to how you
11:23:49 5 conducted interrogations when you were working
11:23:51 6 homicide as a Milwaukee police detective?

11:23:54 7 A Yes.

11:23:55 8 Q Can you describe your approach to
11:23:57 9 interrogations of suspects?

11:23:59 10 A Every person is different, but I had a -- a set
11:24:06 11 practice that I tried to follow where I would
11:24:12 12 first advise the person of their Miranda
11:24:17 13 warnings, then I would get background
11:24:20 14 information, and then I would start talking to
11:24:24 15 them about whatever incident it was that I was
11:24:27 16 investigating. I would write the statement out
11:24:34 17 in the presence of that person. I would read
11:24:38 18 it out loud to them. I would make note of any
11:24:45 19 cross-outs or deletions or additions I had on
11:24:49 20 the statement, and I would have them place
11:24:51 21 their initials where that correction was made,
11:24:54 22 and I would also place my initials there.

11:24:58 23 At the end of the statement, I would
11:25:01 24 have them write that they had either read or
11:25:04 25 had read to them the statement and that it was

11:25:07 1 true and had them sign it. Then after the
11:25:11 2 statement was done, then I asked them if there
11:25:13 3 would be anything they would want to write in
11:25:16 4 their own handwriting and in their own words at
11:25:19 5 the end of the statement.

11:25:20 6 Q Why would you do that last part, ask them to --
11:25:24 7 if they wanted to write anything out in their
11:25:26 8 own words?

11:25:27 9 A It personalizes the -- the statement and if
11:25:32 10 they -- many times they show remorse, and they
11:25:38 11 want to put in words that they are apologizing
11:25:41 12 or why they did something and they want to
11:25:45 13 apologize to families and of the such.

11:25:49 14 Q Was the approach to interrogations that you've
11:25:58 15 just described for us that you used, was that
11:26:00 16 in any way informed by your training at the
11:26:06 17 detective academy?

11:26:09 18 A No.

11:26:09 19 Q Okay. Were you given any training as a
11:26:23 20 detective or a police officer on how to handle
11:26:28 21 an individual with -- individuals with limited
11:26:31 22 cognitive functioning?

11:26:33 23 A No.

11:26:33 24 Q How about how to -- and is that true with
11:26:38 25 interrogations, you didn't get any special

11:26:40 1 training on how to conduct interrogations of
11:26:42 2 someone with limitations in their cognitive
11:26:45 3 functioning?
11:26:45 4 A No.
11:26:47 5 Q Okay. How about as a detective or police
11:26:54 6 officer? Did the Milwaukee Police Department
11:26:57 7 provide to you any training on -- on custodial
11:27:04 8 interrogations of individuals who had medical
11:27:09 9 needs?
11:27:10 10 A Not that I recall.
11:27:11 11 Q So no training with respect how to handle
11:27:15 12 diabetics or anybody like that?
11:27:17 13 A Not that I recall.
11:27:17 14 Q Okay. You were not provided any training as a
11:27:57 15 polygraph examiner on how to read polygraph
11:28:01 16 charts, correct?
11:28:01 17 A No.
11:28:01 18 Q I mean, it's true you don't have any training
11:28:03 19 with respect to polygraphs, right?
11:28:07 20 A Correct.
11:28:07 21 Q Okay. Sorry. I had that double negative in
11:28:10 22 there.
11:28:17 23 Okay. Do you know the person by the
11:28:56 24 name Walter Ellis?
11:29:00 25 A Yes, I've heard his name.

11:29:02 1 Q Okay. And who do you know Walter Ellis to be?

11:29:06 2 A He was referred to as the "North Side
11:29:13 3 Strangler."

11:29:14 4 Q And did you have any -- well, as you sit here
11:29:24 5 today, did you ever have any interactions with
11:29:27 6 Mr. Ellis when you were a Milwaukee police
11:29:30 7 officer or detective that you're aware of?

11:29:31 8 A None.

11:29:32 9 Q How about with his -- any of his family
11:29:39 10 members? Do you, as you sit here today,
11:29:41 11 remember any interactions with Martha Ellis?

11:29:44 12 A No.

11:29:44 13 Q Mattie Ellis?

11:29:46 14 A No.

11:29:46 15 Q All right. I'm going to mark this as Exhibit
11:30:13 16 2.

11:30:14 17 (Exhibit No. 2 was marked.)

11:30:31 18 BY MS. DONNELL:

11:30:31 19 Q Okay. Detective Buschmann, I'm handing you
11:30:35 20 what I've designated as Exhibit 2 to your
11:30:38 21 deposition. Do you recognize Exhibit 2 as a
11:30:44 22 Milwaukee Police Department Supplementary
11:30:49 23 Report, a two-page report? It has the Bates
11:30:52 24 stamp MPD SJH284 and 285. Do you recognize the
11:30:59 25 form that this exhibit is prepared on?

11:31:03 1 A Yes.

11:31:03 2 Q Okay. And I'll represent to you that this is
11:31:11 3 from the M file for the Payne homicide, okay?

11:31:14 4 A Okay.

11:31:15 5 Q And do you see here -- I'm going to call your
11:31:20 6 attention to the bottom of Page 1 of Exhibit 2
11:31:23 7 where the officer reports "I then interviewed a
11:31:26 8 Martha S. Ellis, black female, 2/11/63, of 602
11:31:33 9 West Burleigh and she stated that possibly last
11:31:36 10 Saturday or Sunday she was standing on her
11:31:37 11 porch when she observed a white female walking
11:31:39 12 past her house and that she appeared to be 16
11:31:42 13 or 17 and she was carrying her shoes and her
11:31:45 14 purse in her hand and that as she walked past
11:31:48 15 her house, a car pulled over and she walked
11:31:52 16 towards the car and after a few seconds, the
11:31:55 17 car pulled away and she continued to walk on
11:31:57 18 Burleigh. Ellis was then also interviewed by
11:32:00 19 the detective bureau." Do you see that?

11:32:02 20 A Hm-hm, yes.

11:32:03 21 Q Okay. And so this report of an interview with
11:32:08 22 Ms. Martha Ellis was one of the reports you
11:32:12 23 would have reviewed in the -- your review of
11:32:16 24 the Payne homicide file prior to you working it
11:32:19 25 up as a cold case, correct?

11:32:21 1 A It would have been in the file, yes.

11:32:22 2 Q Okay. And you would have reviewed it?

11:32:25 3 A Yes.

11:32:25 4 Q Okay. Okay. As you sit here today, do you
11:33:13 5 have a memory of doing any work on the Payne
11:33:15 6 homicide yourself prior to being involved as a
11:33:17 7 cold case?

11:33:19 8 A No.

11:33:19 9 Q Okay. Let's mark this as Exhibit 3.

11:33:28 10 (Exhibit No. 3 was marked.)

11:33:40 11 BY MS. DONNELL:

11:33:40 12 Q Mr. Buschmann, I'm handing you what I've
11:33:42 13 designated as Exhibit 3 to your deposition.
11:33:45 14 Exhibit 3 has Bates stamp MPD SJH354 and 3- --
11:33:51 15 534 and 535. It also has the M file from
11:33:57 16 M3084, Section 4, Pages 258 and 259. Do you
11:34:05 17 recognize Exhibit 3 as your supplementary
11:34:09 18 report from your work on the Jessica Payne
11:34:11 19 homicide from back on October 9th, 1995?

11:34:14 20 A Yes.

11:34:14 21 Q Okay. And that's your signature on the back of
11:34:17 22 Page 2?

11:34:19 23 A Yes, it is.

11:34:20 24 Q Okay. And was this when you were working it as
11:34:22 25 a cold case, or was this working it before it

11:34:25 1 became a cold case?

11:34:27 2 A While I was on cold case.

11:34:34 3 Q This would have been on cold case?

11:34:36 4 A Yes.

11:34:36 5 Q How do you know that?

11:34:37 6 A Because that's the first time I was partners

11:34:40 7 with James DeValkenaere.

11:34:41 8 Q Is when you were assigned to the cold case

11:34:45 9 squad?

11:34:45 10 A Yes.

11:34:45 11 Q Okay. Okay. And Exhibit 3 is documenting an

11:34:58 12 interview you and James DeValkenaere conducted

11:35:02 13 with Cassandra McMurray who reportedly had

11:35:08 14 information about Rebecca Morrison about the

11:35:10 15 Payne homicide, right?

11:35:11 16 A Yes.

11:35:11 17 Q Okay. Do you know who Rebecca Morrison was?

11:35:17 18 A Yes.

11:35:17 19 Q Who was she?

11:35:18 20 A She was a friend of Jessica Payne.

11:35:21 21 Q And do you recall that she was with Jessica

11:35:27 22 staying at that home on the north side of

11:35:29 23 Milwaukee with Sandra Giles prior to Jessica's

11:35:32 24 murder?

11:35:33 25 A Yes.

11:35:33 1 Q Sandra Giles -- here, I can take that. Do you
11:35:37 2 know Sandra Giles?

11:35:39 3 A I do not.

11:35:40 4 Q Okay. Okay. This will be Exhibit 4.

11:36:57 5 (Exhibit No. 4 was marked.)

11:36:58 6 BY MS. DONNELL:

11:37:02 7 Q Okay. Mr. Buschmann, I'm handing you what I've
11:37:05 8 designated as Exhibit 4. Exhibit 4 is Bates
11:37:08 9 stamped HADAWAY38647 consecutive through 38656.
11:37:17 10 It also has a prior exhibit designation to the
11:37:20 11 deposition that I took of you back in the Ott
11:37:22 12 case on April 12th, 2012, okay?

11:37:27 13 A Okay.

11:37:27 14 Q And we have referred to it as the "Moore
11:37:33 15 report," but it's a memorandum by Detective
11:37:37 16 Eric Moore dated Tuesday, January 9th, 1996,
11:37:44 17 documenting -- identifying cases that -- for
11:37:48 18 possible submission of evidence to the FBI lab
11:37:51 19 for DNA analysis, right?

11:37:53 20 A Yes.

11:37:53 21 Q And I showed this document to you back in April
11:37:57 22 of 2012. Do you remember that?

11:37:59 23 A No.

11:37:59 24 Q Okay. Well, I'd like to give you a chance to
11:38:09 25 look over it, but maybe what we'll do is I'm

11:38:12 1 going to ask you some preliminary questions,
11:38:14 2 and then I'll give you a chance to read it.
11:38:16 3 It's not very long, but I'm going to ask you
11:38:18 4 some questions first, and then maybe we can
11:38:21 5 take a break and you can look at it, okay?

11:38:21 6 A Okay.

11:38:22 7 Q As you sit here today, before you have a chance
11:38:24 8 to look at Exhibit 4 -- and, again, I am going
11:38:27 9 to give you a chance to look at it, so I'm not
11:38:29 10 trying to trick you at all -- but do you
11:38:32 11 remember at that time that the cold case squad
11:38:33 12 was created in the Milwaukee Police Department
11:38:37 13 that there was an effort to identify unsolved
11:38:43 14 homicides that may have been perpetrated by a
11:38:46 15 common perpetrator?

11:38:49 16 A Yes.

11:38:49 17 Q Can you tell me what you recall just
11:38:52 18 independent about that?

11:38:56 19 A I think independently they were prostitutes,
11:39:04 20 known prostitutes, that were found to be
11:39:08 21 victims of homicides.

11:39:10 22 Q Okay. And so there was -- was there a thought
11:39:23 23 among homicide detectives that there might be a
11:39:25 24 single perpetrator who was committing those
11:39:28 25 crimes, those murders?

11:39:29 1 A They were trying to link them together.

11:39:33 2 Q And that was -- the thought was that there was

11:39:38 3 enough homicides that had sort of similar

11:39:41 4 features that it looked like it could have been

11:39:43 5 a single perpetrator?

11:39:45 6 A Yes.

11:39:45 7 Q Okay. Do you remember any briefings that

11:39:50 8 happened in the homicide unit that pertained to

11:39:53 9 that?

11:39:54 10 A I don't recall.

11:39:55 11 Q Okay. Do you remember any memos going out that

11:39:59 12 were identifying murders or homicide victims

11:40:01 13 that were possibly linked?

11:40:03 14 A Not that I recall.

11:40:04 15 Q Okay. Do you remember, as you sit here today,

11:40:42 16 any other features of the homicides other than

11:40:45 17 the victims were prostitutes?

11:40:56 18 A They were all black.

11:41:00 19 Q The victims were black?

11:41:01 20 A The victims were black, and I believe they were

11:41:08 21 strangled.

11:41:09 22 Q And were they -- all the victims you were

11:41:12 23 thinking of, were they women?

11:41:14 24 A Yes.

11:41:14 25 Q Okay. How about the locations where the bodies

11:41:17 1 were found? Do you remember, as you sit here
11:41:19 2 today, anything that was common about that?
11:41:21 3 A No.
11:41:21 4 Q Okay. Sorry, just one second. Okay. Okay.
11:43:01 5 Well, why don't you take a chance to look at
11:43:06 6 Exhibit 4, and maybe we could take just a -- go
11:43:09 7 off the record and take a short break?
11:43:12 8 THE VIDEOGRAPHER: Going off the
11:43:12 9 record at 11:43.
11:43:16 10 (Brief recess taken.)
11:52:47 11 THE VIDEOGRAPHER: We're back on the
11:52:53 12 record at 11:52.
11:52:54 13 BY MS. DONNELL:
11:52:55 14 Q Okay. On the break, Mr. DeValkenaere -- I
11:52:56 15 mean, Mr. -- sorry, Mr. Buschmann, on the
11:52:59 16 break, were you able to review Exhibit 4 which
11:53:01 17 is the Moore report?
11:53:02 18 A Yes.
11:53:02 19 Q Did reviewing the Moore report refresh your
11:53:06 20 recollection in any way of some of the efforts
11:53:09 21 Eric Moore was making as part of the cold case
11:53:12 22 unit to identify cases for further
11:53:14 23 investigation or DNA testing?
11:53:16 24 A Yes.
11:53:16 25 Q Okay. How did -- what did -- how did it

11:53:18 1 refresh your recollection?

11:53:22 2 A Just from reading it, that he resubmitted the
11:53:25 3 evidence to be retested at the crime lab, along
11:53:30 4 with possible suspects in the other cases or
11:53:36 5 people of interest. I -- I wasn't in the
11:53:41 6 homicide unit any longer when this report was
11:53:43 7 authored.

11:53:45 8 Q In January 1996?

11:53:47 9 A Yes.

11:53:48 10 Q How do you know that?

11:53:49 11 A I was only there for about a year, and I
11:53:55 12 went -- went to another unit after. I don't
11:53:59 13 believe I was there at this time.

11:54:01 14 Q So right after you were doing your
11:54:04 15 investigation of the Payne homicide you were
11:54:06 16 only in the cold case for a couple months or --
11:54:12 17 because, you know, the --

11:54:13 18 A I --

11:54:14 19 Q Sorry.

11:54:15 20 A I would have been there until the end of the --
11:54:18 21 the Ott trial. So, yeah, I would have been
11:54:21 22 there.

11:54:22 23 Q Because the Ott trial was in 1996?

11:54:25 24 A Yes.

11:54:25 25 Q Okay. So this Moore report would have been at

11:54:28 1 the same time that you and James DeValkenaere
11:54:31 2 and Eric Moore were all part of the cold case
11:54:34 3 squad?

11:54:35 4 A Yes.

11:54:35 5 Q Okay. So I'm just curious if refreshing -- if
11:54:38 6 reviewing Eric Moore's report on the cases he
11:54:41 7 was reviewing to identify for additional DNA
11:54:45 8 testing refreshed your recollection of any
11:54:48 9 conversations you guys had as the cold case
11:54:51 10 squad about this review he was doing?

11:54:55 11 A Detective Moore was working by himself on
11:55:01 12 these. He was assigned to reevaluate the
11:55:04 13 evidence and to resubmit it for testing. He
11:55:09 14 didn't work with us at all. This was his
11:55:12 15 assignment.

11:55:12 16 Q So the cold case squad, those four of you, Eric
11:55:19 17 Moore and -- I'm forgetting the other guy's
11:55:24 18 name. He was one of your regular partners at
11:55:27 19 one point, too.

11:55:27 20 A Gary Temp?

11:55:29 21 Q Gary Temp. Gary Temp was part of the cold case
11:55:31 22 squad, too, when you were first there, right?

11:55:33 23 A I believe so, yes.

11:55:33 24 Q And so he was doing his own thing, or was he
11:55:36 25 partnered with anybody?

11:55:37 1 A I can't answer -- I -- I know that Eric Moore
11:55:40 2 had been assigned to this.

11:55:43 3 Q Meaning this project of identifying --

11:55:47 4 A This project, yes.

11:55:48 5 Q Meaning Exhibit 4, identifying cases for DNA
11:55:51 6 testing?

11:55:52 7 A Correct.

11:55:52 8 Q Or identifying cold cases that would benefit
11:55:54 9 from DNA testing?

11:55:56 10 A Yes.

11:55:56 11 Q And one of the cases that Eric Moore identified
11:55:58 12 is Murder 3084 for Jessica Payne, right, if you
11:56:08 13 look at Page 2 of the Eric Moore report?

11:56:14 14 A Yes.

11:56:14 15 Q So Eric Moore was identifying the Payne
11:56:20 16 homicide as a case that could benefit from
11:56:24 17 further DNA testing, right?

11:56:26 18 A Yes.

11:56:26 19 Q And this was just a few months after you had
11:56:29 20 obtained statements from Mr. Gwin and
11:56:31 21 Mr. Hadaway?

11:56:32 22 A Correct.

11:56:33 23 Q Okay. Did you have conversations with Eric
11:56:36 24 Moore about identifying Jessica Payne's case
11:56:40 25 for additional DNA testing since it was right

11:56:43 1 at the time when you and your partner were
11:56:45 2 investigating it?

11:56:45 3 A Not that I recall.

11:56:47 4 Q Okay. Do you see on Page -- and nothing in
11:56:51 5 Exhibit 4 refreshes your recollection about any
11:56:53 6 of those conversations?

11:56:54 7 A No.

11:56:54 8 Q As you sit here today, can you think of a
11:56:57 9 reason why Jessica Payne was on this list, you
11:57:05 10 know, two months after you and your partner had
11:57:08 11 obtained statements from Mr. Gwin and
11:57:11 12 Mr. Hadaway?

11:57:11 13 MS. GEHLING: Objection; foundation.
11:57:15 14 You can answer if you know.

11:57:19 15 THE WITNESS: No.

11:57:19 16 BY MS. DONNELL:

11:57:19 17 Q Okay. On the third page of Eric Moore's
11:57:24 18 report, there were 33 persons that were
11:57:25 19 subsequently identified as possible suspects,
11:57:28 20 right?

11:57:30 21 A Yes.

11:57:31 22 Q And some of those individuals are redacted out,
11:57:41 23 correct?

11:57:42 24 A Yes.

11:57:43 25 Q And some of those individuals include

11:58:02 1 individuals that were suspects that are
11:58:05 2 identified in the Payne homicide, correct, if
11:58:08 3 you look at Page 4? So you'll see --
11:58:18 4 A Yes.
11:58:18 5 Q -- suspect -- Eric Moore had identified Suspect
11:58:23 6 No. 27 as Terrance Wallace, right?
11:58:25 7 A Correct.
11:58:25 8 Q And that was from the -- a suspect from the
11:58:27 9 Payne homicide?
11:58:27 10 A Yes.
11:58:28 11 Q He had identified Johnnie Lee Jones from the
11:58:31 12 Payne homicide?
11:58:32 13 A Yes.
11:58:32 14 Q And he identified Walter J.D. Moffett from the
11:58:37 15 Payne homicide, right?
11:58:39 16 A Yes.
11:58:39 17 Q Does that refresh your recollection in any way
11:58:41 18 as to conversations you had with Eric Moore
11:58:44 19 about further investigation of three suspects
11:58:47 20 from the Payne homicide you were investigating?
11:58:49 21 A No.
11:58:49 22 Q Do you remember the suspect that Eric Moore
11:59:07 23 identified as No. 14, Mr. Thomas Wynn, who had
11:59:12 24 been identified as a suspect in the Preston,
11:59:17 25 McCormick, Farrior, and Maniece cases?

11:59:18 1 A Yes.

11:59:18 2 Q He was a city forestry worker. Do you remember

11:59:20 3 that guy?

11:59:22 4 A Yes, I do.

11:59:23 5 Q What do you remember about Mr. Wynn?

11:59:25 6 A That he was a city forestry worker.

11:59:28 7 Q Anything else?

11:59:29 8 A No.

11:59:29 9 Q Do you remember, back then, information about

11:59:34 10 some of the victims were -- had been part of

11:59:40 11 community drug rehab groups and had all been

11:59:43 12 participants in that or some of them had been

11:59:46 13 participants in community drug rehab groups, a

11:59:49 14 friendship group, a friendship circle?

11:59:52 15 A I don't recall.

11:59:56 16 Q It's fair to say that even though you reviewed

11:59:59 17 all of Exhibit 4 today, Eric Moore's report,

12:00:03 18 and see that both Jessica Payne is identified

12:00:07 19 here for DNA testing and three of the suspects

12:00:13 20 from Jessica Payne's homicide are identified

12:00:15 21 for further testing, that nothing in this has

12:00:19 22 refreshed your recollection as to conversations

12:00:20 23 you had with Eric Moore back in late '95, early

12:00:25 24 '96 about the Payne homicide?

12:00:27 25 A Correct.

12:00:27 1 Q Okay. This memo was submitted to Victor Venus,
12:00:43 2 the captain of the police, right?

12:00:44 3 A Yes.

12:00:44 4 MS. GEHLING: Objection; foundation.

12:00:46 5 BY MS. DONNELL:

12:00:46 6 Q Or it's identified to -- on Page 1, to Victor
12:00:50 7 Venus, right?

12:00:51 8 A To Victor Venus, yes.

12:00:53 9 Q And was that the chief of the Milwaukee Police
12:00:56 10 Department at that time?

12:00:56 11 A No.

12:00:56 12 Q He was a captain?

12:00:58 13 A Yes.

12:00:58 14 Q Was he captain of the CIB?

12:01:01 15 A I don't recall.

12:01:02 16 Q Okay. When you said Eric Moore had been
12:01:05 17 assigned to this project of identifying cases
12:01:07 18 for additional testing, who -- do you know who
12:01:12 19 assigned him to that task?

12:01:13 20 A No.

12:01:13 21 Q Okay. Who did you report to when you were part
12:01:20 22 of the cold case squad?

12:01:23 23 A I don't recall.

12:01:24 24 Q Okay. If you previously testified that you
12:01:29 25 mostly interacted with Lieutenant Ardis, does

12:01:32 1 that refresh your recollection?

12:01:34 2 A I know he was a homicide lieutenant.

12:01:38 3 Q Okay. Do you ever see or talk to Eric Moore

12:02:30 4 since your retirement?

12:02:31 5 A No.

12:02:31 6 Q How about Percy Moore?

12:02:43 7 A No.

12:02:57 8 Q Okay. Do you remember Walter J.D. -- I mean, I

12:03:39 9 don't -- J.D. Moffett as an individual in the

12:03:43 10 Payne homicide?

12:03:47 11 A I recall the name.

12:03:50 12 Q Do you remember his interactions with Jessica

12:03:54 13 Payne prior to her murder?

12:03:55 14 A No.

12:03:56 15 Q Okay. Do you remember that Sandra Giles had

12:03:59 16 reported that he had had sex with her, that she

12:04:04 17 had sex with him?

12:04:04 18 A I don't recall that.

12:04:05 19 Q Okay. I'm going to show you what I've

12:04:08 20 designated as Exhibit 5 to your -- Exhibit 5 to

12:04:12 21 your deposition.

12:04:25 22 (Exhibit No. 5 was marked.)

12:04:25 23 BY MS. DONNELL:

12:04:25 24 Q Mr. Buschmann, I'm holding -- handing you what

12:04:27 25 I've designated as Exhibit 5 to your

12:04:31 1 deposition. It has Bates stamp MPD SJH497 and
12:04:36 2 498. This is a supplementary report by
12:04:40 3 reporting officer Detective Mark Levenhagen,
12:04:46 4 and I'm -- and this is from the Jessica Payne
12:04:53 5 M file, Section 4, Pages 220 and 221, okay?
12:04:57 6 A Hm-hm, yes.
12:04:58 7 Q Okay. And this is documenting his
12:05:00 8 investigation from September 12, 1995, where he
12:05:05 9 spoke to Sandra Giles at the -- the jail,
12:05:09 10 right?
12:05:12 11 A Yes.
12:05:13 12 Q And this would have been one of the reports
12:05:15 13 that was in the M file for the Payne homicide
12:05:17 14 that you reviewed prior to getting involved as
12:05:20 15 a cold case investigation, correct?
12:05:22 16 A Yes.
12:05:22 17 Q And if you see on the back, the last paragraph,
12:05:29 18 Mark Levenhagen asked Sandra Giles if J.D.,
12:05:33 19 meaning J.D. Moffett who was identified on
12:05:35 20 the -- Walter J.D. Moffett who's identified on
12:05:40 21 the front page, whether he had had sex with
12:05:42 22 Rebecca to which she said that J.D. had had sex
12:05:46 23 with both Rebecca Morrison and Jessica Payne,
12:05:48 24 and then he inquired how Giles knew that, and
12:05:50 25 she explained that J.D. had been in the back

12:05:53 1 room with Jessica for several hours when
12:05:57 2 Rebecca was gone and that she stated at one
12:05:58 3 point Jessica came out dressed in blue jeans
12:05:59 4 and a T-shirt and J.D. said to get Jessica a
12:06:02 5 towel. "She stated that while Jessica was
12:06:05 6 getting a towel in the bathroom, he told Giles
12:06:07 7 how -- how good Jessica's stuff was, and I
12:06:09 8 asked Giles what J.D. meant by this, at which
12:06:13 9 Giles stated she believed J.D. had sex with
12:06:15 10 Jessica because that's what he meant by 'her
12:06:17 11 good stuff,' " right?
12:06:18 12 A That's what it says.
12:06:19 13 Q Okay. And this would have been one of those
12:06:23 14 reports you read, right?
12:06:24 15 A Yes.
12:06:24 16 Q Okay. And J.D. -- J.D. Moffett is one of those
12:06:27 17 individuals identified for further
12:06:28 18 investigation as a suspect in Eric Moore's
12:06:33 19 report, right?
12:06:33 20 A Yes.
12:06:34 21 Q And there was evidence that Jessica Payne was
12:06:36 22 having sex in the house where she was staying
12:06:39 23 with Sandra Giles, right?
12:06:42 24 A Based on this, yes.
12:06:49 25 Q Okay. Do you remember there being evidence

12:06:52 1 that Becky Morrison had been prostituting
12:06:54 2 herself during that same time frame?
12:06:56 3 A I don't recall.
12:06:56 4 Q Okay. But if there was that evidence in the
12:07:01 5 supplementary report, you would have been aware
12:07:04 6 of it back when you were investigating in 1995,
12:07:06 7 right?
12:07:07 8 A Yes.
12:07:07 9 Q Okay. But you do recall independently there
12:07:17 10 was evidence of drug use in the home where
12:07:20 11 Becky Morrison and Jessica Payne were staying
12:07:22 12 before her murder, right?
12:07:25 13 A Yes.
12:07:26 14 Q Okay. Okay. I'm going to mark this as
12:08:10 15 Exhibit 6.
12:08:11 16 (Exhibit No. 6 was marked.)
12:08:12 17 BY MS. DONNELL:
12:08:12 18 Q Mr. Buschmann, I'm handing you what I've
12:08:15 19 designated as Exhibit 6 to your deposition. Do
12:08:18 20 you recognize Exhibit 6 as a supplementary
12:08:21 21 report prepared by your partner, James
12:08:25 22 DeValkenaere, in the Payne homicide
12:08:26 23 investigation?
12:08:26 24 A Yes.
12:08:27 25 Q Okay. And you didn't see this supplementary

12:08:31 1 report to prepare for your deposition; is that
12:08:33 2 right?

12:08:33 3 A That's correct.

12:08:33 4 Q Okay. This documents that on Friday, October
12:08:43 5 20th you and James DeValkenaere were assigned
12:08:52 6 to assist in the investigation of the
12:08:55 7 above-captioned incident. Do you see that?

12:08:56 8 A Yes.

12:08:56 9 Q But you had already -- were you assigned to
12:09:00 10 assist with it, or this is what you were
12:09:02 11 working as a cold case at this point?

12:09:04 12 A I don't recall.

12:09:05 13 Q Okay. But this indicates that you were going
12:09:07 14 to find a suspect named Cortez who was
12:09:11 15 described as a 17-year-old black male, right?

12:09:14 16 A Yes.

12:09:14 17 Q And you recall that being one of the first
12:09:16 18 things that you and James DeValkenaere were
12:09:19 19 doing as part of the cold case investigation
12:09:22 20 was to figure out who this Cortez was, right?

12:09:25 21 A Yes.

12:09:25 22 Q Okay. So that refreshes your recollection that
12:09:27 23 this was part of your cold case investigation,
12:09:29 24 right?

12:09:29 25 A Yes.

12:09:29 1 Q And, in fact, you didn't get partnered with
12:09:32 2 James DeValkenaere until you were part of the
12:09:34 3 cold case squad, right?

12:09:36 4 A Yes.

12:09:37 5 Q And what I showed you in Exhibit 3 -- or
12:09:43 6 Exhibit 3 was a report that you authored from
12:09:48 7 October 9th which predated this and you said
12:09:52 8 that was when you were working it up as a cold
12:09:55 9 case, right?

12:09:56 10 A Yes.

12:10:06 11 Q And this was about 11 days later, right?

12:10:15 12 A I guess what -- yes.

12:10:23 13 Q So in Exhibit 3, it documented your
12:10:29 14 investigation with James DeValkenaere on
12:10:31 15 October 9th when you went to talk to Cassandra
12:10:36 16 McMurray who had information about Rebecca
12:10:39 17 Morrison, Jessica Payne's friend, right?

12:10:41 18 A Yes.

12:10:41 19 Q And then your Exhibit 6 has -- documents your
12:10:45 20 investigation with James DeValkenaere to try
12:10:48 21 and figure out who Cortez is, right?

12:10:51 22 A Correct.

12:10:51 23 Q Okay. Does that refresh your recollection in
12:10:53 24 any way that the first thing you were doing in
12:10:55 25 the cold case was to find out information about

12:10:57 1 Becky Morrison?

12:11:01 2 A In chronological order, yes.

12:11:03 3 Q Okay. Okay. So back to Exhibit 6, this would

12:11:08 4 have been when you were working it up with Jim

12:11:11 5 DeValkenaere as a cold case, right?

12:11:13 6 A Yes.

12:11:13 7 Q And you were trying to find out who this

12:11:16 8 17-year-old Cortez is, and so you wanted to

12:11:19 9 talk to family members who were residing at

12:11:22 10 1611 North 19th Street, right?

12:11:24 11 A Yes.

12:11:26 12 Q And at that residence you talked to Teresa

12:11:29 13 Gwin; is that right?

12:11:30 14 A Yes.

12:11:31 15 Q And she stated that Cortez Brown is her

12:11:33 16 brother, Richard Gwin?

12:11:37 17 A Yes.

12:11:38 18 Q Okay. Then you go on to -- this report

12:11:49 19 indicates that three days later on October 23rd

12:11:52 20 you and Jim DeValkenaere went to go find

12:11:57 21 Richard Gwin's mother, Melva Gwin, right?

12:12:01 22 A Yes.

12:12:01 23 Q And you guys told Mrs. Gwin, his mom, that you

12:12:08 24 needed to speak to her son about a serious

12:12:10 25 situation, but you didn't advise her on the

12:12:14 1 specifics, right?

12:12:15 2 A Right.

12:12:24 3 Q And then at the bottom, the second-to-last
12:12:28 4 paragraph, it says "At approximately 1:30 p.m.
12:12:31 5 on 10/24/95, Melva Gwin appeared at the
12:12:35 6 Criminal Investigation Bureau along with her
12:12:37 7 son, Richard C. Gwin. Subsequently Richard
12:12:41 8 Gwin was interviewed in an interview room at
12:12:44 9 the Criminal Investigation Bureau"?

12:12:47 10 A Yes.

12:12:47 11 Q Does that refresh your recollection that
12:12:49 12 Mr. Gwin was brought in by his mom?

12:12:51 13 A Yes.

12:12:51 14 Q Okay. And so does this refresh your
12:12:58 15 recollection that the first time you and Jim
12:13:00 16 DeValkenaere talked to Mr. Gwin was on the
12:13:03 17 afternoon of October 24th?

12:13:05 18 A Yes.

12:13:05 19 Q Okay. And then if you look, in that interview
12:13:15 20 with Mr. Gwin, he denied any knowledge of the
12:13:18 21 incident which had occurred at North 7th Street
12:13:21 22 and West Burleigh and he denied having ever
12:13:24 23 made statements to anyone regarding any girl
12:13:26 24 being held for sale or anyone having killed a
12:13:29 25 girl and stating that she deserved it, right?

12:13:31 1 He denied any knowledge or involvement,
12:13:35 2 correct?

12:13:35 3 A Yes.

12:13:35 4 Q Okay. Do you see on this -- the last page of
12:13:55 5 Exhibit 6 that -- that you went -- it says --
12:14:04 6 the report says "When questioned further, Gwin
12:14:06 7 went on to describe how the girl who was found
12:14:09 8 behind the house on North 7th Street and West
12:14:11 9 Burleigh Street had died as a result of having
12:14:15 10 her throat slashed. Gwin was confronted with
12:14:16 11 the fact that he was showing personal knowledge
12:14:17 12 of this offense and he was unable to give any
12:14:19 13 explanation as to how he would have received
12:14:21 14 this knowledge," right?

12:14:22 15 A Yes.

12:14:22 16 Q Was the fact that her throat was slashed, was
12:14:30 17 that publicly known?

12:14:32 18 A No, not to my knowledge.

12:14:34 19 Q You know that there were public citizens who
12:14:37 20 had found the body and reported it, right?

12:14:41 21 A Yes.

12:14:42 22 Q And so her -- the observation of her neck being
12:14:49 23 slashed had been observed by members of the
12:14:51 24 public, right?

12:14:52 25 A I don't -- I don't recall.

12:14:53 1 Q Well, you have no knowledge that that wasn't
12:14:58 2 known by individuals who had found the body,
12:15:01 3 right?

12:15:01 4 MS. GEHLING: Objection; foundation.
12:15:03 5 You can answer.

12:15:04 6 THE WITNESS: I don't recall.

12:15:05 7 BY MS. DONNELL:

12:15:05 8 Q Had you done -- it states that "He initially
12:15:08 9 stated he had seen news accounts relative to
12:15:12 10 the death, but then he was told that this had
12:15:14 11 not been public knowledge." Do you see that?

12:15:16 12 A Yes.

12:15:16 13 Q How did you and James DeValkenaere know that
12:15:20 14 the fact that Jessica Payne's throat had been
12:15:23 15 slashed was not public?

12:15:26 16 A The manner of death had not been released to
12:15:29 17 the public by our department.

12:15:31 18 Q Other than that, the fact that the manner of
12:15:35 19 death had not been released by the department,
12:15:38 20 did you have any awareness of what was known in
12:15:41 21 the neighborhood at the time?

12:15:41 22 A No.

12:15:41 23 Q Okay. So it's entirely possible that the fact
12:15:46 24 that the white girl had been found with her
12:15:48 25 neck slashed was known in the neighborhood

12:15:50 1 based on what people had observed, right?

12:15:53 2 MS. GEHLING: Objection; foundation.

12:15:55 3 THE WITNESS: I don't know.

12:15:56 4 BY MS. DONNELL:

12:15:56 5 Q Okay. You have no way of knowing that it

12:15:58 6 wasn't known in the neighborhood even if the

12:16:00 7 department hadn't released that information,

12:16:02 8 correct?

12:16:03 9 A I -- I don't know.

12:16:06 10 Q But this report goes on -- I was going to ask

12:16:22 11 you more questions about the report.

12:16:22 12 A Okay.

12:16:24 13 Q The report goes on to say "Due to the

12:16:25 14 information that had been received prior to

12:16:27 15 Richard Gwin appearing at the Criminal

12:16:29 16 Investigation Bureau and the fact that he was

12:16:32 17 displaying some knowledge of this incident" --

12:16:36 18 meaning that he knew her throat had been

12:16:38 19 slashed, right?

12:16:39 20 A Yes.

12:16:40 21 Q -- "he was taken into custody at 4:50 p.m. on

12:16:45 22 10/24/95," right?

12:16:47 23 A Yes.

12:16:47 24 Q And so you and your partner arrested Mr. Gwin

12:16:52 25 for the Payne homicide based on this, right?

12:16:55 1 A Yes.

12:16:56 2 Q Okay. Then the report goes on to say

12:17:01 3 "Subsequent to being taken into custody, Gwin

12:17:04 4 would give additional statements. These

12:17:06 5 statements are detailed in separate

12:17:08 6 supplementary reports," right?

12:17:09 7 A Yes.

12:17:09 8 Q And then this report is dated 10/27/95, right?

12:17:13 9 A Yes.

12:17:13 10 Q A week after the actual -- or, sorry, strike

12:17:17 11 that.

12:17:18 12 Three days after the actual interview

12:17:19 13 with Mr. Gwin on October 24th, right?

12:17:22 14 A Yes.

12:17:22 15 Q Okay. Does having reviewed Exhibit 6 refresh

12:17:29 16 your recollection in any way of your

12:17:32 17 interrogation of Mr. Richard Gwin?

12:17:43 18 A Minimal.

12:17:44 19 Q Okay. Does it refresh your recollection that

12:18:26 20 you and your partner decided to take him into

12:18:29 21 custody for the Payne homicide?

12:18:31 22 A Yes.

12:18:32 23 Q Okay. Okay. Do you remember taking Mr. Gwin

12:18:51 24 to be polygraphed?

12:18:54 25 A No.

12:18:54 1 Q Okay. I'm going to mark this as Exhibit 7.

12:19:48 2 (Exhibit No. 7 was marked.)

12:19:48 3 BY MS. DONNELL:

12:19:49 4 Q Okay. I'm handing you what I've designated as
12:19:52 5 Exhibit 7 to your deposition. Exhibit 7 has
12:19:54 6 Bates stamp MPD SJH552, 553. It comes from the
12:19:59 7 M homicide file 3084, Section 4, Pages 276 and
12:20:03 8 277. Do you recognize this as the
12:20:06 9 supplementary report prepared by your partner,
12:20:10 10 James DeValkenaere, picking up on Tuesday,
12:20:14 11 October 24th at 4:50 p.m. for the custodial
12:20:20 12 interrogation of Mr. Gwin right after you guys
12:20:22 13 decided to arrest him?

12:20:24 14 A Yes.

12:20:24 15 Q Okay. And you have not had a chance to review
12:20:30 16 this in preparing for your deposition; is that
12:20:33 17 right?

12:20:33 18 A No.

12:20:33 19 Q Okay. All right. So Exhibit 7 indicates that
12:20:51 20 you and your partner provided Mr. Gwin his
12:20:56 21 Miranda rights; is that right?

12:20:58 22 A Yes.

12:20:58 23 Q And he gives some background information that
12:21:01 24 he was born in Memphis but moved to Milwaukee a
12:21:05 25 year and a half ago and he lives with his mom

12:21:07 1 on 20th and Locust?

12:21:09 2 A Yes.

12:21:09 3 Q Okay. He said he's currently in the 11th grade

12:21:14 4 at the North Division High School, right?

12:21:15 5 A Yes.

12:21:15 6 Q And here he gives his date of birth as

12:21:19 7 12/22/77, right?

12:21:20 8 A Yes.

12:21:21 9 Q And so when you were interviewing Mr. Gwin, he

12:21:26 10 was 17 years old, just shy of his 18th

12:21:30 11 birthday; is that right?

12:21:31 12 A Yes.

12:21:31 13 Q Okay. He again denied having any involvement

12:21:38 14 in Jessica Payne's homicide, right?

12:21:41 15 A Yes.

12:21:43 16 Q And he again denied that he had any -- ever

12:21:47 17 said that he had a girl for sale or that he'd

12:21:49 18 killed a girl and she deserved it, right?

12:21:51 19 A Correct.

12:21:52 20 Q And then he goes on to say that he thought the

12:21:58 21 police wanted to talk to him about the death of

12:22:00 22 a white girl on 7th and Burleigh because

12:22:02 23 someone told him about it, and he said he'd

12:22:05 24 heard about it from a guy named Sammy Joe who's

12:22:08 25 a black male who lives next door to his sister,

12:22:12 1 Teresa, on 19th and Galena, right?

12:22:17 2 A Yes.

12:22:17 3 Q Okay. Before I ask you more questions about

12:22:23 4 Exhibit 7, do you remember anything of the

12:22:27 5 questioning back and forth that you and your

12:22:29 6 partner had with Mr. Gwin prior to your

12:22:32 7 decision to arrest him, so, you know, when you

12:22:34 8 were first talking to him on the afternoon of

12:22:38 9 the 24th before 4:50 when you guys decided to

12:22:45 10 arrest him?

12:22:45 11 A No.

12:22:46 12 Q Do you remember whether it was an accusatorial

12:22:51 13 questioning or if it was just open-ended

12:22:53 14 questioning? Do you remember anything about

12:22:54 15 the nature of the questioning you and your

12:22:56 16 partner were engaged in?

12:22:58 17 A No.

12:22:58 18 Q Do you remember, prior to his mom bringing him

12:23:12 19 in, that you and your partner thought Richard

12:23:15 20 Gwin was a suspect and possibly had involvement

12:23:19 21 in Payne's homicide based on the statements he

12:23:23 22 had allegedly made?

12:23:28 23 A Statements he made to whom?

12:23:32 24 Q Well, the statements that you were inquiring of

12:23:38 25 him about, that he had said he had a white girl

12:23:40 1 for sale and that -- and that he'd killed a
12:23:46 2 girl and she deserved it?
12:23:47 3 A He was a person of interest.
12:23:49 4 Q What's a person of interest?
12:23:50 5 A Someone that displayed possible knowledge.
12:23:57 6 Q So in your interactions with him before you
12:24:03 7 arrested him -- well, in your first interaction
12:24:08 8 with him, it doesn't indicate that he was given
12:24:11 9 his Miranda rights, does it?
12:24:13 10 A He was not in custody.
12:24:14 11 Q Okay. So at that time he wasn't being
12:24:17 12 interrogated as a suspect; is that right?
12:24:19 13 A Correct.
12:24:19 14 Q Why not?
12:24:23 15 A We didn't have probable cause to arrest him.
12:24:27 16 Q So from 11:00 a.m. -- sorry, from -- so from
12:24:34 17 1:30 p.m. on October 24th to 4:50 p.m., he was
12:24:40 18 not being interrogated as a suspect in the
12:24:43 19 Payne homicide?
12:24:44 20 A No.
12:24:45 21 Q And then at 4:50 p.m., you decided to arrest
12:24:49 22 him and that's when he got his Miranda rights?
12:24:52 23 A Yes.
12:24:52 24 Q Was his mom present for that first interview
12:24:56 25 from 1:30 p.m. to 4:50 p.m.?

12:25:00 1 MS. GEHLING: Objection; relevance.

12:25:02 2 THE WITNESS: No.

12:25:02 3 BY MS. DONNELL:

12:25:02 4 Q Was there any requirement for individuals under
12:25:04 5 18 to have a present -- a parent or legal
12:25:07 6 guardian with them during a murder
12:25:09 7 interrogation?

12:25:09 8 A No.

12:25:10 9 Q Why not?

12:25:12 10 MS. GEHLING: Objection; foundation;
12:25:13 11 also relevance.

12:25:18 12 THE WITNESS: I don't know.

12:25:19 13 BY MS. DONNELL:

12:25:19 14 Q Okay. Okay. Once he was arrested and you
12:25:27 15 started a custodial interrogation of him, did
12:25:32 16 it turn to be accusatorial in nature at that
12:25:40 17 point?

12:25:40 18 A I don't recall.

12:25:41 19 Q You don't recall one way or the other?

12:25:44 20 A I don't have independent recollection of how
12:25:48 21 the interview went.

12:25:50 22 Q So as you sit here today, you have no memory of
12:25:53 23 how the interrogation went -- the custodial
12:25:56 24 interrogation went with Mr. Gwin, right?

12:25:58 25 A That's correct.

12:25:59 1 Q Okay. On your -- in your custodial
12:26:25 2 interrogation of Mr. Gwin, he states that --
12:26:35 3 that he reported that when he was at his
12:26:38 4 sister's house a couple months ago late at
12:26:40 5 night, he happened to look over to Sammy Joe's
12:26:43 6 house and he saw Sammy Joe on the porch with
12:26:45 7 two white girls, right?

12:26:47 8 A Yes.

12:26:47 9 Q And then your partner's -- your report -- James
12:26:52 10 DeValkenaere's report says "Subject identifies
12:26:54 11 one of the girls as Jessica Payne after being
12:26:59 12 shown her photo," right?

12:27:00 13 A Yes.

12:27:00 14 Q What photo did you and your partner show
12:27:03 15 Richard Gwin in this interrogation on October
12:27:07 16 24th?

12:27:07 17 A I don't recall.

12:27:08 18 Q Would it have been the crime scene photograph?

12:27:13 19 A No.

12:27:13 20 Q It would have been a photograph of her alive?

12:27:15 21 A Yes.

12:27:19 22 Q Okay. Okay. And then according to this
12:27:28 23 report, Mr. Gwin had let you know that Sammy
12:27:32 24 Joe had stated a month later that the girl he
12:27:34 25 was kicking it with had been found at 7th and

12:27:38 1 Burleigh and that -- behind an abandoned house
12:27:42 2 with her neck cut, right?
12:27:43 3 A Yes.
12:27:43 4 Q And then it indicates that Mr. Gwin had an
12:27:49 5 opportunity to review the handwritten
12:27:50 6 statement, right?
12:27:51 7 A Yes.
12:27:53 8 Q And that this interview concluded at 7:45 p.m.?
12:28:00 9 A Correct.
12:28:01 10 Q Okay. So you and your partner were
12:28:03 11 interrogating -- well, you and your partner
12:28:05 12 were interviewing Mr. Gwin from 1:30 to 4:50
12:28:13 13 p.m. first, right?
12:28:14 14 A Yes.
12:28:14 15 Q And then at 4:50 you guys arrested him and
12:28:18 16 continued to interrogate him in a custodial
12:28:21 17 interrogation until 7:45 p.m., right?
12:28:24 18 A Yes.
12:28:24 19 Q And then he was taken over to the jail?
12:28:27 20 A I believe so.
12:28:28 21 Q Okay. Now, nothing in the reports you've read
12:28:35 22 so far, Exhibits 6 and 7, gives an inculpatory
12:28:42 23 statement or a statement inculcating
12:28:45 24 Mr. Hadaway or Mr. Ott in the murder of Jessica
12:28:48 25 Payne, correct?

12:28:49 1 A Right.

12:28:49 2 Q Okay. So at this point on the 24th, Mr. Gwin
12:28:54 3 still hasn't given you a statement that he had
12:28:56 4 actual knowledge or participation in Jessica
12:28:59 5 Payne's murder, right?

12:29:00 6 A Correct.

12:29:00 7 Q You're not -- you have no information saying
12:29:02 8 that Mr. Hadaway had knowledge or participation
12:29:05 9 in Jessica Payne's murder, right?

12:29:08 10 A Correct.

12:29:08 11 Q And Mr. Ott isn't even mentioned?

12:29:18 12 A Correct.

12:29:18 13 Q Okay.

12:29:20 14 MS. DONNELL: I think I said that we
12:29:22 15 would get a break at 12:30, so let's take a
12:29:25 16 lunch break.

12:29:26 17 THE VIDEOGRAPHER: Going off the
12:29:27 18 record at 12:29.

12:29:30 19 (Recess taken.)

01:19:11 20 THE VIDEOGRAPHER: We're back on the
01:19:14 21 record at 1:19.

01:19:18 22 BY MS. DONNELL:

01:19:19 23 Q Okay. Where we left off, I was asking you
01:19:25 24 questions about your -- in your time with
01:19:29 25 Mr. Richard Gwin. Do you remember that?

01:19:31 1 A Yes.

01:19:31 2 Q Okay. I think I asked you earlier before we
01:19:34 3 took a break whether you have any independent
01:19:36 4 recollection of taking Mr. Gwin to be
01:19:39 5 polygraphed on October 25th, 1995, and I
01:19:44 6 believe you said no; is that right?

01:19:46 7 A Correct.

01:19:47 8 Q Okay. I'm going to show you what I'm
01:19:51 9 designating as Exhibit 8 to your deposition and
01:20:06 10 see if it refreshes your recollection.

01:20:06 11 (Exhibit No. 8 was marked.)

01:20:06 12 BY MS. DONNELL:

01:20:08 13 Q Mr. Buschmann, I'm handing you what I've
01:20:08 14 designated as Exhibit 8 to your deposition.
01:20:11 15 Exhibit 8 has Bates stamps MPD SJH1347 and -48.
01:20:15 16 It's from the Payne homicide file, M3084. This
01:20:20 17 is from Section 15, Pages 93 and 94. You can
01:20:24 18 get a chance to look at that and I'll see if it
01:20:27 19 refreshes your recollection, okay?

01:20:54 20 A Okay.

01:20:54 21 Q Does reviewing -- do you recognize Exhibit 8 as
01:20:58 22 a Milwaukee Police Department Criminal
01:21:01 23 Investigation Bureau report of a polygraph
01:21:04 24 examination?

01:21:04 25 A Yes.

01:21:05 1 Q Okay. And this report was documenting the
01:21:09 2 polygraph examination of Richard Gwin on
01:21:12 3 October 25th, 1995, at 10:02 a.m. until 11:41
01:21:20 4 a.m.; is that right?

01:21:21 5 A Yes.

01:21:21 6 Q And you are the submitting investigator, right?

01:21:24 7 A That's what it says.

01:21:25 8 Q Okay. And this would have been after we looked
01:21:32 9 at Exhibit 7, your custodial interrogation of
01:21:35 10 Mr. Gwin on the 24th, right?

01:21:38 11 A Correct.

01:21:38 12 Q It's the next morning, right?

01:21:39 13 A Yes.

01:21:39 14 Q Okay. And the polygraph examiner is Richard --
01:21:45 15 I'm sorry, Robert Simons, right?

01:21:47 16 A Yes.

01:21:48 17 Q Okay. And you -- you know Robert Simons?

01:21:50 18 A I do.

01:21:51 19 Q Had you worked with him before your work with
01:21:57 20 him in the polygraphs he did in the Payne
01:22:00 21 homicide investigation?

01:22:01 22 A We were in the same unit.

01:22:04 23 Q Okay. Where was the polygraph examination room
01:22:09 24 with respect to where the homicide unit was?

01:22:11 25 A It's on the same floor as the CIB, fourth

01:22:16 1 floor, and it was off in a corner in a back
01:22:23 2 office.

01:22:23 3 Q Do you remember how many polygraph examiners
01:22:27 4 there were in '95 other than Robert Simons?

01:22:31 5 A I believe there was one other one, Peter
01:22:35 6 Gauthier.

01:22:36 7 Q Okay. And if you wanted to polygraph someone,
01:22:43 8 did you have to set up an appointment, or could
01:22:44 9 you just bring someone over during business
01:22:47 10 hours, or how did it work?

01:22:48 11 A You'd have to set up an appointment to make
01:22:51 12 sure they were available.

01:22:52 13 Q Did they work more than one shift?

01:22:56 14 A No.

01:22:56 15 Q Did the polygraph examiners just work day shift
01:23:01 16 in the mid '90s?

01:23:02 17 A Yes.

01:23:04 18 Q And that was 8:00 a.m. to 4:00 p.m.?

01:23:06 19 A Yes.

01:23:06 20 Q So if you wanted to polygraph someone, it had
01:23:10 21 to be during those hours?

01:23:11 22 A Unless they made arrangements to be available.

01:23:13 23 Q Does anything you've reviewed so far refresh
01:23:16 24 your recollection as to when you had requested
01:23:20 25 Mr. Gwin to be polygraphed?

01:23:30 1 A I don't recall requesting Mr. Gwin to be
01:23:34 2 polygraphed.
01:23:35 3 Q Okay. Fair to say nothing you've seen so far
01:23:39 4 refreshes your recollection on that score?
01:23:40 5 A No.
01:23:40 6 Q But you don't have reason to dispute that you
01:23:43 7 had submitted to have Gwin polygraphed and he
01:23:47 8 was polygraphed on October 25th?
01:23:48 9 A Correct.
01:23:49 10 Q Okay. And he was -- according to Robert
01:23:54 11 Simons' report, Gwin was being polygraphed for
01:23:58 12 the purpose of determining the truthfulness of
01:24:00 13 his denials that he had knowledge or
01:24:02 14 involvement in the homicide of Jessica Payne,
01:24:05 15 right?
01:24:06 16 A Yes.
01:24:06 17 Q And according to this report, he was asked four
01:24:13 18 relevant questions in the course of the
01:24:16 19 polygraph examination, right?
01:24:20 20 A Yes.
01:24:20 21 Q "Do you know for sure who murdered Jessica,"
01:24:24 22 right?
01:24:24 23 A Yes.
01:24:24 24 Q "Did you murder Jessica," right?
01:24:26 25 A Yes.

01:24:27 1 Q "Were you present when Jessica was murdered?"

01:24:30 2 A Right.

01:24:30 3 Q And "Right now, can you give me the name of the

01:24:33 4 person who murdered Jessica," right?

01:24:35 5 A Correct.

01:24:35 6 Q And Mr. Gwin is reported to have answered no to

01:24:39 7 each of those four relevant questions, right?

01:24:42 8 A Correct.

01:24:42 9 Q Do you -- when an individual is being taken to

01:24:48 10 be polygraphed, would you -- and you were

01:24:50 11 requesting it, would you first meet with

01:24:52 12 Mr. Simons or Gauthier and give them

01:24:56 13 information about the case and the suspect

01:24:58 14 before they administered the polygraph?

01:25:01 15 A Yes.

01:25:01 16 Q And that was, like -- was that considered,

01:25:04 17 like, a pre-polygraph interview?

01:25:06 18 A Giving background on what they were going to be

01:25:09 19 talking to the person about.

01:25:10 20 Q Because they may not necessarily -- meaning the

01:25:15 21 polygraph examiner, may not have any knowledge

01:25:17 22 of what that homicide was, the details about

01:25:20 23 it, right?

01:25:20 24 A Correct.

01:25:21 25 Q So it's fair to say sometime before Mr. Gwin

01:25:24 1 was administered a polygraph examination by
01:25:30 2 Examiner Simons, you would have talked to
01:25:32 3 Simons about the Payne homicide?
01:25:35 4 A Possibly me or DeValkenaere. I'm not sure who.
01:25:41 5 Q Or both of you?
01:25:42 6 A Or both.
01:25:42 7 Q Yep. And you would not have the individual
01:25:45 8 present for that meeting, meaning Richard Gwin
01:25:48 9 would not be present for it?
01:25:50 10 A No.
01:25:50 11 Q Do you know whether -- do you have any
01:25:51 12 knowledge about reports that were prepared by
01:25:55 13 the polygraph examiner for that pre-polygraph
01:25:58 14 interview, the interview they had with
01:26:01 15 detectives to get information about the case
01:26:04 16 and about the individual they would be
01:26:06 17 examining?
01:26:06 18 A No.
01:26:06 19 Q Okay. According to this Simons report, that
01:26:18 20 "Upon conducting the examination and making
01:26:20 21 careful evaluation of the polygraph charts,
01:26:23 22 it's the opinion of this polygraphist that
01:26:26 23 Richard Gwin is not being completely truthful
01:26:29 24 in his denials," right?
01:26:30 25 A Right.

01:26:30 1 Q And he goes on to indicate that he "reacted
01:26:33 2 strongly to Questions 3 and 4 as listed below
01:26:35 3 and may have some knowledge of who may have
01:26:39 4 committed the offense or who may have been at
01:26:41 5 the scene." Do you see that?

01:26:42 6 A Yes.

01:26:42 7 Q The opinion is being classified as "restricted
01:26:47 8 lying due to the subject's young age and him
01:26:54 9 having trouble with certain control questions
01:26:57 10 used in the polygraph technique." Do you see
01:26:58 11 that?

01:26:58 12 A Yes.

01:26:59 13 Q Do you, as you sit here today, know what the
01:27:03 14 classification "restricted lying" means as a
01:27:05 15 classification of a polygraph examination?

01:27:07 16 A I have no idea.

01:27:08 17 Q Okay. According to the report, one of the
01:27:11 18 reasons for that was Mr. Gwin's young age
01:27:13 19 because he was 17 at the time, right?

01:27:15 20 A He was, yes.

01:27:16 21 Q Did you -- is there any -- strike that.

01:27:19 22 Did you have to get a parent or legal
01:27:23 23 guardian's approval to polygraph a minor?

01:27:26 24 MS. GEHLING: Objection; relevance.

01:27:29 25 THE WITNESS: I don't recall.

01:27:30 1 BY MS. DONNELL:

01:27:32 2 Q There's nothing in this report that indicates
01:27:34 3 that consent was given by Mr. Gwin's mom,
01:27:40 4 correct?

01:27:41 5 MS. GEHLING: Objection; relevance
01:27:43 6 and foundation.

01:27:44 7 MS. DONNELL: You can answer.

01:27:45 8 THE WITNESS: Correct.

01:27:45 9 BY MS. DONNELL:

01:27:45 10 Q Okay. And you don't have any memory of doing
01:27:48 11 that, right?

01:27:49 12 A No.

01:27:50 13 Q Okay. I'm going to hand you what I've
01:28:07 14 designated as Exhibit 9.

01:28:24 15 (Exhibit No. 9 was marked.)

01:28:24 16 BY MS. DONNELL:

01:28:25 17 Q Okay. Mr. Buschmann, I've handed you what I've
01:28:28 18 designated as Exhibit 9 to your deposition.
01:28:30 19 This is Bates stamped MPD SJH716 consecutive to
01:28:38 20 718, and it's a copy of the handwritten
01:28:41 21 statement prepared by your partner as well as
01:28:46 22 the Miranda rights.

01:28:49 23 A Hm-hm.

01:28:49 24 Q Is that right?

01:28:50 25 A Yes.

01:28:50 1 Q You didn't look at this document -- and this
01:28:53 2 one's dated, I'm sorry, October 24th, 1995, at
01:28:58 3 4:50 p.m., right?

01:29:00 4 A Yes.

01:29:00 5 Q You didn't look at this to prepare for your
01:29:03 6 deposition; is that right?

01:29:03 7 A That's correct.

01:29:04 8 Q Do you recognize your signature on the second
01:29:08 9 page of Exhibit 9?

01:29:11 10 A Yes.

01:29:11 11 Q And you also recognize your signature on the
01:29:14 12 third page of Exhibit 9 for the Miranda
01:29:18 13 warnings?

01:29:19 14 A Yes.

01:29:19 15 Q Okay. And it indicates that this interview
01:29:23 16 started at 4:54 p.m. and ended at 7:45 p.m.; is
01:29:28 17 that right?

01:29:28 18 A Yes.

01:29:28 19 Q And do you recognize this handwriting as your
01:29:31 20 partner, Jim DeValkenaere's?

01:29:34 21 A Yes.

01:29:34 22 Q And this statement is the statement that
01:29:49 23 corresponds to the supplementary report that
01:29:52 24 your partner prepared of the custodial
01:29:57 25 interrogation, Exhibit 7, right?

01:29:59 1 A Correct.

01:29:59 2 Q This will be 10 and 11.

01:30:34 3 (Exhibit Nos. 10 and 11 were marked.)

01:30:36 4 BY MS. DONNELL:

01:30:37 5 Q Okay. I'm going to hand you first what is
01:30:37 6 Exhibits 10 and 11. Exhibit 10 is Bates
01:30:38 7 stamped MPD SJH720 consecutive through 722. Do
01:30:44 8 you recognize this as the handwritten statement
01:30:46 9 that James DeValkenaere prepared for your
01:30:49 10 interrogation of Richard Gwin on the following
01:30:52 11 day, October 25th, 1995, beginning at 5:15
01:30:57 12 p.m.?

01:30:57 13 A Yes.

01:30:57 14 Q And this statement is reported to have
01:31:03 15 concluded at 6:45 p.m., right?

01:31:07 16 A Yes.

01:31:07 17 Q Okay. And so this would have been sometime
01:31:11 18 after the polygraph examination. There was
01:31:14 19 another time that you and your partner spoke to
01:31:17 20 Mr. Gwin, right?

01:31:18 21 A Yes.

01:31:18 22 Q And this statement comes after Mr. Gwin had
01:31:27 23 denied any knowledge or involvement in the
01:31:29 24 Payne homicide to you and your partner on
01:31:31 25 October 24th, right?

01:31:33 1 A Correct.

01:31:33 2 Q First as a witness, right?

01:31:37 3 A Yes.

01:31:37 4 Q Then in a custodial interrogation, right?

01:31:40 5 A Yes.

01:31:40 6 Q And then again on the morning of the 25th after

01:31:44 7 the -- or during the polygraph examination?

01:31:47 8 A Yes.

01:31:47 9 Q Okay. Do you know whether you spoke -- how

01:31:52 10 long you spoke to Mr. Gwin after the polygraph

01:31:57 11 examination?

01:31:58 12 A No.

01:31:58 13 Q Was it typical if the polygraph examination

01:32:03 14 resulted in a -- a finding of possible lying

01:32:07 15 being detected that you would then conduct a

01:32:11 16 post-polygraph interrogation of the individual?

01:32:14 17 A Yes.

01:32:14 18 Q So is it fair to say that you would have likely

01:32:19 19 again interrogated Mr. Gwin after you got the

01:32:23 20 results of his polygraph examination?

01:32:27 21 A Yes.

01:32:27 22 Q Was it typical that you'd wait, like, for six

01:32:31 23 hours to do that?

01:32:34 24 A It doesn't -- there's no time limit on when we

01:32:38 25 would have got to it.

01:32:39 1 Q Was it typical to interrogate someone right
01:32:42 2 after they learned that the examiner found
01:32:44 3 deception indicated?

01:32:52 4 A I -- I don't know. In this case, I don't know.

01:32:53 5 Q Sure. Putting this case aside since you don't
01:32:56 6 remember this case, but was it typical -- like,
01:32:59 7 you would go and set up a polygraph
01:33:01 8 examination, give Simons or the other examiner
01:33:04 9 information about the case and the individual,
01:33:04 10 he would take them alone to be polygraphed,
01:33:07 11 read the charts, come back with the results,
01:33:09 12 and then depending on the results of the
01:33:11 13 examination, there'd be a post-polygraph
01:33:14 14 interrogation, right?

01:33:15 15 A There was times when the polygraphist would
01:33:21 16 interview the person after the exam themselves.

01:33:26 17 Q Okay.

01:33:26 18 A Right after? There's no written rule when the
01:33:29 19 person's going to be talked to after a
01:33:31 20 polygraph is administered.

01:33:32 21 Q Is it possible that you talked to Richard Gwin
01:33:35 22 right after the polygraph examination?

01:33:37 23 A I don't recall.

01:33:37 24 Q Okay. Were you as a detective able to observe
01:33:43 25 the individual being polygraphed?

01:33:45 1 A No.

01:33:46 2 Q Like, there wasn't, like, a two-way glass or --

01:33:52 3 A No.

01:33:52 4 Q Okay. So the examiner would take the person

01:33:55 5 alone. Would you guys wait in the polygraph

01:33:58 6 office or go to the CIB?

01:34:00 7 A No, we wouldn't -- once he's with the

01:34:04 8 polygraphist, we'd go about our own business.

01:34:07 9 Q Would the polygraph examiner call you when they

01:34:10 10 had the results?

01:34:11 11 A Yes.

01:34:12 12 Q Okay. Do -- do you have a recollection of how

01:34:18 13 long a typical examination took?

01:34:21 14 A No.

01:34:21 15 Q Okay. Thanks. All right. So the statement

01:34:25 16 here, do you recognize your signature on Page 3

01:34:30 17 of Exhibit 10, the 10/25/95 statement by

01:34:36 18 Mr. Gwin?

01:34:36 19 A Yes.

01:34:36 20 Q Okay. Now, this statement -- strike that.

01:34:53 21 Do you see at the top of the

01:35:02 22 handwritten statement where it says -- after

01:35:06 23 giving the time and date and location of the

01:35:11 24 interview, it says "This interview was

01:35:13 25 conducted after Gwin's release from custody."

01:35:20 1 Do you see that?

01:35:21 2 A Yes.

01:35:21 3 Q And then it says "He was -- he was re-advised
01:35:27 4 of his rights where he states he understands";
01:35:31 5 is that right?

01:35:31 6 A Yes.

01:35:32 7 Q Can you explain to me what that -- what that
01:35:36 8 means, that he was released from custody but
01:35:39 9 then he was re-advised of his rights?

01:35:41 10 MS. GEHLING: Objection; foundation.

01:35:46 11 THE WITNESS: He was released from
01:35:47 12 custody. There wasn't enough probable cause to
01:35:50 13 hold him at the time. And when he was
01:35:55 14 re-talked to, he was re-advised of his rights
01:36:02 15 in case he was going to provide any
01:36:07 16 incriminating information.

01:36:11 17 BY MS. DONNELL:

01:36:12 18 Q Do you -- well, you said Mr. Gwin was released
01:36:15 19 because there wasn't probable cause to hold
01:36:17 20 him; is that right?

01:36:18 21 A Yes.

01:36:18 22 Q Why was there not probable cause to hold him?

01:36:20 23 A We didn't have enough probable cause to hold
01:36:23 24 him and get him charged.

01:36:25 25 Q Is this the interview, the October 25th early

01:36:48 1 evening interview of Mr. Gwin, that you have an
01:36:50 2 independent recollection of?

01:36:53 3 A I haven't read the statement.

01:36:57 4 Q I've also designated in front of you Exhibit 11
01:37:01 5 which is the supplementary report for the
01:37:05 6 re-interview of Mr. Gwin from 10/25/1995 as
01:37:09 7 well. Do you see that?

01:37:11 8 A Yes.

01:37:11 9 Q And you recognize that as your partner's
01:37:13 10 supplementary report --

01:37:15 11 A Yes.

01:37:15 12 Q -- documenting your and his interview of
01:37:19 13 Mr. Gwin after he was released, his
01:37:21 14 administrative release from custody?

01:37:23 15 A Yes.

01:37:23 16 Q Okay.

01:37:30 17 A Yes, this is what I would say I -- this is what
01:37:33 18 I recall.

01:37:34 19 Q Okay. Can you tell me everything you recall
01:37:36 20 about this re-interview of Mr. Cortez [sic]?

01:37:42 21 A We already talked about that.

01:37:43 22 Q Well, did you release him from custody and tell
01:37:47 23 him he was free to go home?

01:37:49 24 A We told him he was released from custody and
01:37:54 25 that we wanted to talk to him before he went

01:37:57 1 home.

01:37:58 2 Q And you guys were his way home, right?

01:38:03 3 MS. GEHLING: Objection; relevance.

01:38:05 4 BY MS. DONNELL:

01:38:05 5 Q Well, you guys eventually drove Mr. Gwin home,
01:38:08 6 right?

01:38:08 7 A I don't recall.

01:38:08 8 Q Do you remember seeing that in the -- your
01:38:11 9 testimony in Ott?

01:38:13 10 A I never read the Ott deposition.

01:38:16 11 Q On Page 91, when I referred you to your
01:38:20 12 testimony earlier today. If you look at Page
01:38:32 13 91 -- oh, I'm sorry, it's not there. Hold on
01:39:02 14 just a second. My apologies.

01:39:02 15 MS. GEHLING: 90. It's the page
01:39:02 16 right before.

01:39:14 17 MS. DONNELL: Sorry. Thank you.

01:39:14 18 BY MS. DONNELL:

01:39:15 19 Q If you look at Page 90 --

01:39:15 20 MS. GEHLING: Yeah.

01:39:17 21 BY MS. DONNELL:

01:39:17 22 Q -- does that refresh your recollection that you
01:39:19 23 and your partner drove Mr. Gwin home?

01:39:29 24 A Yes.

01:39:30 25 Q Okay. So you did drive Mr. Gwin home on the

01:39:34 1 25th, right?

01:39:35 2 A Yes.

01:39:35 3 Q All right. So before Mr. Gwin gave the

01:39:42 4 statement on the 25th, you had indicated to him

01:39:45 5 that he was free to go home?

01:39:47 6 A Yes.

01:39:48 7 Q And he chose not to go home?

01:39:53 8 A He chose to talk with us.

01:39:55 9 Q Did he indicate why he chose to talk to you?

01:39:59 10 A No.

01:39:59 11 Q Was that unusual that an individual who had

01:40:04 12 just been held in custody and interrogated

01:40:07 13 for -- and polygraphed for knowledge and

01:40:09 14 involvement in a murder was then released from

01:40:12 15 custody and chose to stay and talk?

01:40:15 16 A No.

01:40:15 17 Q That happened before other than this occasion?

01:40:18 18 A I don't recall if it's ever happened before.

01:40:21 19 It's not unusual.

01:40:21 20 Q But you can't think of another instance today,

01:40:24 21 can you?

01:40:25 22 A Not today, no.

01:40:26 23 Q Okay. Did Mr. Gwin indicate to you why he was

01:40:42 24 choosing to talk to you and your partner after

01:40:47 25 he was released from custody?

01:40:52 1 A I don't know.

01:40:53 2 Q Did -- is it fair to assume that after Mr. Gwin
01:41:02 3 was found to have had failed or possible
01:41:06 4 deception on his polygraph that there would
01:41:08 5 have been a post-polygraph interrogation of
01:41:11 6 Mr. Gwin?

01:41:14 7 A This is -- are you saying this is the
01:41:18 8 post-polygraph?

01:41:19 9 Q I'm not saying that. I'm saying it's just fair
01:41:24 10 to assume there would have been at one point a
01:41:25 11 post-polygraph interrogation where deception is
01:41:28 12 indicated?

01:41:29 13 A Yes.

01:41:29 14 Q That would have been an investigative step that
01:41:32 15 would have been conducted in a homicide
01:41:34 16 investigation where there's somebody who's
01:41:36 17 taken to be polygraphed for knowledge or
01:41:37 18 participation in a murder and deception is
01:41:39 19 indicated. That wouldn't just be left gone,
01:41:44 20 left alone; there would be an interrogation by
01:41:46 21 somebody, right?

01:41:48 22 A Yes.

01:41:48 23 Q So either you or your partner would have done
01:41:52 24 it or you would expect the examiner to do it?

01:41:55 25 A Yes.

01:41:56 1 Q Okay. And that post-polygraph examination of
01:42:00 2 Mr. Gwin should be documented by somebody,
01:42:03 3 whoever did it, right?

01:42:04 4 A Correct.

01:42:05 5 Q Okay. Did you make Mr. Gwin any promises that
01:42:20 6 if he implicated Mr. Hadaway in the Payne
01:42:28 7 homicide that he would receive?

01:42:31 8 A No.

01:42:31 9 Q Did you -- did your partner in your presence
01:42:35 10 make any promises to Mr. Gwin that if he
01:42:38 11 cooperated and implicated Mr. Hadaway in the
01:42:41 12 Payne homicide that he might receive?

01:42:44 13 A No.

01:42:44 14 Q Did you make any threats to Mr. Gwin that he
01:42:48 15 could be charged with the Payne homicide if he
01:42:52 16 did not implicate Mr. Hadaway in the Payne
01:42:56 17 homicide?

01:42:57 18 A No.

01:42:57 19 Q Did you hear your partner, Jim DeValkenaere,
01:42:59 20 make any threats to Mr. Richard Gwin that if he
01:43:04 21 did not implicate Chaunte Ott in the Payne
01:43:07 22 homicide that he could be charged with it?

01:43:09 23 A No.

01:43:10 24 Q And even when Mr. Gwin was under arrest -- or
01:43:27 25 was under arrest and in custody for possibly

01:43:30 1 committing the Payne homicide, you did not --
01:43:36 2 did you -- well, strike that.

01:43:37 3 Did you at any point during your
01:43:39 4 custodial interrogation of Mr. Gwin threaten
01:43:42 5 that he could be charged with a crime?

01:43:46 6 A No.

01:43:47 7 Q Did you provide Mr. Gwin any non-public facts
01:43:58 8 about the Payne homicide in your questioning of
01:44:00 9 him?

01:44:00 10 A No.

01:44:00 11 Q Did your partner provide any non-public facts
01:44:03 12 to Mr. Gwin in his questioning of Mr. Gwin?

01:44:05 13 A No.

01:44:05 14 Q Okay. In this -- in the supplementary report
01:44:32 15 or in the statement, whichever is -- which
01:44:35 16 would you like to refer to?

01:44:36 17 A This one.

01:44:38 18 Q Exhibit 11?

01:44:39 19 A Yes.

01:44:39 20 Q Okay. So looking at Exhibit 11, on Page 2 it's
01:44:42 21 documented that Mr. Gwin stated that he was in
01:44:49 22 the car with Sammy, meaning Sam Hadaway, in the
01:44:53 23 front passenger seat, the girl in the back
01:44:55 24 middle seat, and Chaunte was in the back right
01:44:58 25 seat; is that right?

01:44:59 1 A Yes.

01:44:59 2 Q And that Gwin stated he drove to 7th Street,
01:45:03 3 North 7th Street, and West Burleigh Street
01:45:07 4 without stopping?

01:45:07 5 A Yes.

01:45:07 6 Q And then he indicates he stopped on North 7th
01:45:11 7 Street, and after stopping, all of them smoked
01:45:17 8 some bud that he had, right?

01:45:21 9 A Yes.

01:45:21 10 Q And "bud" was referring to marijuana?

01:45:25 11 A Yes.

01:45:25 12 Q And that after that they were in the car
01:45:28 13 listening to music and that Sammy then said he
01:45:33 14 thought the girl had some money and that's why
01:45:36 15 they were talking -- taking her to the spot,
01:45:38 16 right?

01:45:39 17 A Yes.

01:45:41 18 Q And then he stated Sammy said that they should
01:45:44 19 go to the -- into the spot -- well, strike
01:45:46 20 that.

01:45:47 21 Gwin said that Sammy told them they
01:45:50 22 would be back in a minute, and then he waited
01:45:52 23 in the car, right?

01:45:53 24 A Yes.

01:45:53 25 Q And then the report goes on to say that Sammy

01:46:18 1 said about 15 -- that Gwin said about 15
01:46:21 2 minutes later Sammy and Chaunte came back to
01:46:23 3 the car without the girl, right?

01:46:25 4 A Yes.

01:46:25 5 Q And then apparently Mr. Gwin said that "Sammy
01:46:30 6 said she didn't have no money, so Chaunte cut
01:46:33 7 her throat," right?

01:46:34 8 A Yes.

01:46:34 9 Q And then Gwin said he drove -- after that
01:46:46 10 conversation, alleged conversation, they drove
01:46:48 11 to his cousin's house, Charlotte Brown's house,
01:46:53 12 right?

01:46:53 13 A Yes.

01:46:54 14 Q Where Mr. Gwin wanted to check on his drug-sale
01:46:58 15 business?

01:46:59 16 A Yes.

01:46:59 17 Q And then according to Mr. Gwin, a month later
01:47:13 18 Sammy was told -- he talked to Sammy and Sammy
01:47:18 19 said -- told him that the girl who was found
01:47:21 20 dead behind the house was the girl who was with
01:47:24 21 them and that he made a cutting throat [sic]
01:47:26 22 saying her throat got cut, right?

01:47:29 23 A Yes.

01:47:29 24 Q Okay. Now, Mr. Gwin, after denying any
01:47:33 25 knowledge or involvement for over a day of

01:47:37 1 being -- in talking to you and your partner
01:47:41 2 both in and out of custody and being
01:47:42 3 polygraphed suddenly volunteers all this
01:47:45 4 information after he was released from custody,
01:47:47 5 right?

01:47:48 6 A Yes.

01:47:48 7 Q Can you explain why that -- that happened?

01:47:50 8 A No.

01:47:51 9 Q And you don't think that's unusual?

01:47:56 10 A I don't recall how the interview happened.

01:48:03 11 Q As you sit here today, you have no memory of
01:48:06 12 how it happened?

01:48:07 13 A That's correct.

01:48:07 14 Q So you have no memory of the specific questions
01:48:09 15 that you or your partner asked Mr. Gwin?

01:48:12 16 A No.

01:48:12 17 Q And you have no memory of his responses?

01:48:15 18 A No.

01:48:15 19 Q Other than how it's documented in these
01:48:18 20 reports?

01:48:18 21 A Correct.

01:48:19 22 Q Okay. Is it accurate to say that the
01:48:25 23 information that Mr. Gwin provided to you on
01:48:29 24 the 25th about the Payne homicide and the
01:48:33 25 manner of death was information you already

01:48:35 1 had?

01:48:38 2 A No.

01:48:39 3 Q Well, you already knew her neck had been cut,

01:48:43 4 correct?

01:48:43 5 A Yes.

01:48:44 6 Q Okay. So was there any information about

01:48:49 7 the -- the cause of her death that was new to

01:48:52 8 you that Mr. Gwin provided?

01:48:54 9 A He wasn't there when the incident happened.

01:49:04 10 When the murder happened, he was in the car, so

01:49:07 11 he would have no knowledge of what happened

01:49:11 12 back there, other than what was told to him.

01:49:12 13 Q And what was allegedly told to him was

01:49:15 14 information you already had, right?

01:49:18 15 A No, because we didn't know about Sammy Joe

01:49:21 16 Hadaway or Chaunte Ott prior to his statement.

01:49:25 17 Q Okay. Putting aside the Sammy Joe and Chaunte

01:49:30 18 Ott piece in terms of the cause of -- what

01:49:32 19 caused Ms. Payne's death, there was no new

01:49:34 20 information that Mr. Gwin was able to provide

01:49:35 21 to you?

01:49:38 22 A Correct.

01:49:38 23 Q And in terms of the location of where her body

01:49:42 24 was found, you also had that information --

01:49:45 25 A Yes.

01:49:45 1 Q -- prior to Mr. Gwin?

01:49:47 2 A Yes.

01:49:47 3 Q Okay. Okay. Is it fair to say that the next
01:50:08 4 thing you did on the Payne homicide
01:50:13 5 investigation was -- well, strike that.

01:50:16 6 After your interview with Mr. Gwin,
01:50:20 7 you and your partner drove him home, right?

01:50:24 8 A Yes.

01:50:24 9 Q And then you came back and briefed the next
01:50:27 10 shift on the follow-up investigation you were
01:50:29 11 requesting?

01:50:29 12 A Correct.

01:50:29 13 Q And that was to find Sam Hadaway?

01:50:32 14 A Yes.

01:50:32 15 Q Was it also to find Chaunte Ott?

01:50:36 16 A I don't recall.

01:50:36 17 Q Okay. And then you did -- I don't know if I
01:50:51 18 asked you this, so forgive me if I already did.
01:50:55 19 Prior to your involvement in the Payne
01:50:57 20 homicide, had you had any interactions with my
01:51:00 21 client, Sam Hadaway, that you're aware of?

01:51:02 22 A No.

01:51:02 23 Q How about with respect to Chaunte Ott? Prior
01:51:05 24 to your involvement in the Payne homicide
01:51:07 25 investigation, had you had any interactions

01:51:09 1 with Mr. Ott that you're aware of?

01:51:11 2 A No.

01:51:14 3 Q And how about Mr. Gwin?

01:51:15 4 A No.

01:51:16 5 Q How about Walter J.D. Moffett? Had you had

01:51:24 6 interactions with him --

01:51:25 7 A No.

01:51:25 8 Q -- that you're aware of? No?

01:51:30 9 Okay. Do you remember back in

01:51:41 10 October '95 what days you were working?

01:51:44 11 A No.

01:51:44 12 Q Do you remember, was there, like, a rotation?

01:51:48 13 Like, you'd work five days on, two days off,

01:51:50 14 and it would rotate back then?

01:51:52 15 A I don't recall. They changed the shifts for

01:51:58 16 seven days on, three days off. Then it was

01:52:03 17 five days on, two days off, four days on, two

01:52:07 18 days off. They switched it up, so back then I

01:52:09 19 don't know.

01:52:09 20 Q It's hard to remember?

01:52:10 21 A I don't remember.

01:52:11 22 Q Is it fair to say while you were working the

01:52:14 23 cold case squad with DeValkenaere during this

01:52:18 24 time frame you were working days, though?

01:52:20 25 A Yes.

01:52:20 1 Q Okay. Okay. The next thing that you remember
01:52:36 2 being involved in was your interrogation of
01:52:38 3 Mr. Hadaway, right?

01:52:40 4 A Correct.

01:52:40 5 Q Okay. And like you said earlier, you were
01:52:50 6 aware when you were going to interrogate
01:52:53 7 Mr. Hadaway that he had already been
01:52:55 8 interrogated by several of your colleagues,
01:52:58 9 right?

01:52:58 10 A Yes.

01:52:59 11 Q And so he was interrogated by Eric Moore on
01:53:04 12 October 25th, right?

01:53:06 13 A Yes.

01:53:06 14 Q And he was then interrogated by Detective Dubis
01:53:14 15 and Percy Moore, right?

01:53:16 16 A Yes.

01:53:16 17 Q And then eventually you guys spoke to him on
01:53:20 18 the 27th, right?

01:53:22 19 A Correct.

01:53:23 20 Q And so you were aware at the time that you were
01:53:37 21 talking to Mr. Hadaway that -- that he had
01:53:46 22 denied any knowledge or involvement to Eric
01:53:50 23 Moore, right?

01:53:51 24 A Yes.

01:53:51 25 Q And he had denied any knowledge or involvement

01:53:54 1 to Detective Dubis and Percy Moore, right?

01:53:57 2 A Correct.

01:53:58 3 Q Okay.

01:54:56 4 MS. DONNELL: Okay. I apologize.

01:54:58 5 Can we go off the record for just a second?

01:55:03 6 Can we go off the record, please?

01:55:05 7 THE VIDEOGRAPHER: Going off the
01:55:06 8 record at 1:55.

01:55:08 9 (Brief recess taken.)

02:00:26 10 THE VIDEOGRAPHER: We're back on the
02:00:27 11 record at 2:00.

02:00:29 12 MS. DONNELL: Thanks.

02:00:29 13 BY MS. DONNELL:

02:00:33 14 Q Okay. Detective Buschmann, you had said
02:00:38 15 earlier that you had an independent
02:00:41 16 recollection of your interrogation of my
02:00:45 17 client, Sammy Hadaway, right?

02:00:47 18 A I reviewed his statement.

02:00:48 19 Q You reviewed his handwritten statement that is
02:00:52 20 in your handwriting?

02:00:53 21 A Yes.

02:00:53 22 Q And you did that a couple weeks ago to prepare
02:00:56 23 for your deposition?

02:00:57 24 A Correct.

02:00:57 25 Q Okay. And in doing that, it refreshed your

02:01:01 1 recollection as to some of -- to have an
02:01:05 2 independent recollection of your interactions
02:01:08 3 with Mr. Hadaway; is that true?

02:01:09 4 A Yes.

02:01:09 5 Q Okay. Can you tell me your independent
02:01:12 6 recollection of this independent, you know,
02:01:16 7 refreshed recollection of your interactions
02:01:18 8 with Mr. Hadaway on October 27th, 1995?

02:01:26 9 A I guess, can you repeat the question?

02:01:30 10 Q Sure. Please describe for me your independent
02:01:33 11 recollection, what you remember as you sit here
02:01:37 12 today, of your interactions with Mr. Hadaway on
02:01:40 13 October 27th, 1995.

02:01:44 14 A My first recollection was getting him from the
02:01:50 15 city jail as he had summoned a jailer that he
02:01:58 16 wished to talk to the detectives, and so I was
02:02:02 17 assigned to go and bring him down, and Jim and
02:02:07 18 I put him in an interview room. I advised him
02:02:15 19 of his constitutional rights which I had him
02:02:22 20 read from a card. He indicated he understood
02:02:25 21 his rights and that he was willing to answer
02:02:27 22 questions, and then we just went into talking
02:02:30 23 to him. I said, "You wanted to talk to us;
02:02:34 24 what did you want to tell us," words to that
02:02:36 25 effect, and he went on to talk about the

02:02:39 1 incident in which he was under arrest for.

02:02:44 2 Q Okay. As you sit here today, do you know how
02:03:15 3 long Mr. Hadaway had been under arrest for the
02:03:18 4 Payne homicide at the time you were talking to
02:03:21 5 him?

02:03:22 6 A No.

02:03:22 7 Q Eric Moore, your colleague, had an
02:03:39 8 interrogation of him that was at 3:25 p.m. on
02:03:43 9 October 25th, right?

02:03:48 10 A Okay.

02:03:48 11 Q And your conversation with him was starting at
02:03:51 12 12:30 on October 27th?

02:03:57 13 A I think it was 2:00.

02:04:00 14 Q 2:00 was when you started? Yes, sorry.
02:04:06 15 Thank -- let's see -- thank you for clarifying
02:04:09 16 at 2:00.

02:04:09 17 A Yes.

02:04:10 18 Q Let's mark this as the next exhibit, Exhibit
02:04:14 19 12.

02:04:15 20 (Exhibit Nos. 12 and 13 were marked.)

02:04:39 21 BY MS. DONNELL:

02:04:40 22 Q Okay. I've handed you what I've designated as
02:04:43 23 Exhibits 12 and 13 to your deposition. Do you
02:04:45 24 recognize Exhibit 12 as the handwritten
02:04:47 25 statement in your handwriting of Mr. Hadaway

02:04:50 1 from your interrogation of him on October 27th,
02:04:56 2 1995?

02:04:57 3 A Yes.

02:04:57 4 Q And it also includes a signed Miranda waiver;
02:05:02 5 is that right?

02:05:02 6 A Yes.

02:05:02 7 Q With your signature on it?

02:05:04 8 A Yes.

02:05:05 9 Q And it also includes a -- the last page is a
02:05:10 10 diagram, right?

02:05:11 11 A Yes.

02:05:18 12 Q And that diagram is part -- in part is in your
02:05:22 13 handwriting as well?

02:05:23 14 A It's both my handwriting and Hadaway's.

02:05:27 15 Q Okay. If I give you this pink pen, can you
02:05:31 16 identify on the last page of Exhibit 12 what
02:05:34 17 part's in your handwriting, other than your
02:05:37 18 signature, and what part's in Mr. Hadaway's?
02:05:41 19 So can you indicate in pink -- in red what's
02:05:45 20 your -- circle what's your --

02:05:46 21 A What's mine?

02:05:47 22 Q Yeah, what's yours.

02:06:05 23 A Well, my -- I drew the -- the layout of the map
02:06:10 24 for 7th and Burleigh.

02:06:12 25 Q Okay. So is that your writing on the last page

02:06:15 1 of Exhibit 12 that says "N. 7th"? That's your
02:06:19 2 handwriting?
02:06:20 3 A Yes.
02:06:20 4 Q Okay. Can you circle it?
02:06:20 5 A (Witness complies.)
02:06:24 6 Q And "West Burleigh" down at the bottom, that's
02:06:26 7 yours?
02:06:27 8 A Yes.
02:06:27 9 Q And the north indication at the top orientating
02:06:30 10 the map, that's yours?
02:06:32 11 A Yes.
02:06:33 12 Q Okay. And then this "X-way" over on the left,
02:06:38 13 is that you -- your handwriting as well, it
02:06:39 14 looks like?
02:06:40 15 A Yeah.
02:06:40 16 Q Okay. And then the street designation that
02:06:44 17 says 7th and Burleigh, is that also yours on
02:06:50 18 the blocks? I'm sorry. So, like, these
02:06:53 19 squares, did you draw these squares indicating
02:06:56 20 the streets?
02:06:56 21 A Yes.
02:06:57 22 Q Okay. How about the "abandoned house" with an
02:07:03 23 arrow? Is that your handwriting?
02:07:04 24 A No.
02:07:05 25 Q Okay. How about "mattress"? Is that your

02:07:07 1 handwriting?

02:07:08 2 A No.

02:07:08 3 Q And how about the squiggly lines and then it

02:07:15 4 says, I don't know, "CB" and "HS"? Is the "CB"

02:07:19 5 your initials?

02:07:20 6 A Yes.

02:07:20 7 Q And that's the alley being crossed out?

02:07:23 8 A Yes.

02:07:23 9 Q And you're initialing that the same way Hadaway

02:07:28 10 is?

02:07:28 11 A Yes.

02:07:28 12 Q Although his initials are backwards, right?

02:07:33 13 A Yeah.

02:07:34 14 Q Okay.

02:07:34 15 MS. GEHLING: Or just upside down.

02:07:36 16 THE WITNESS: Or upside down, yeah.

02:07:37 17 BY MS. DONNELL:

02:07:38 18 Q Okay. How about the indication of a car?

02:07:41 19 A The "car" is my handwriting.

02:07:43 20 Q Okay.

02:07:44 21 A The car itself isn't; it was his.

02:07:48 22 Q Hadaway's?

02:07:49 23 A Yes.

02:07:49 24 Q Okay. The "abandoned house" you said is not

02:07:53 25 your writing?

02:07:54 1 A No.

02:07:54 2 Q That's Hadaway's writing?

02:07:56 3 A Yes.

02:07:56 4 Q Okay. And how about the three blocks? One is

02:08:02 5 indicating an abandoned house, and there's two

02:08:04 6 other squares. Who drew those?

02:08:06 7 A I don't recall.

02:08:12 8 Q It could have been you?

02:08:13 9 A It could have been me. I'm thinking it was

02:08:16 10 him.

02:08:16 11 Q But you don't really know one way -- you're not

02:08:21 12 sure?

02:08:21 13 A I'm not sure.

02:08:21 14 Q I don't want you to speculate. So are you

02:08:24 15 uncertain who put the squares or the

02:08:26 16 rectangles, excuse me, for the house

02:08:27 17 indications?

02:08:27 18 A I thought that's what we were talking about.

02:08:29 19 Q Yeah, I'm saying to be clear, you don't recall

02:08:32 20 one way or the other whether it was you or Sam

02:08:34 21 who did that?

02:08:35 22 A Correct.

02:08:35 23 Q Okay. How about the square for the mattress?

02:08:38 24 A That was him.

02:08:38 25 Q And the writing that says "mattress" or --

02:08:41 1 A His.

02:08:41 2 Q -- "matters"?

02:08:43 3 A That was his.

02:08:45 4 Q Okay.

02:08:45 5 MS. GEHLING: And, I'm sorry, I
02:08:46 6 just -- did he say the writing for the car was
02:08:50 7 his but the square was --

02:08:50 8 MS. DONNELL: You know, I can --

02:08:54 9 MS. GEHLING: I'm sorry.

02:08:54 10 MS. DONNELL: Well, if you want to
02:08:58 11 clean it up later you can, but...

02:08:59 12 MS. GEHLING: Yeah.

02:08:59 13 BY MS. DONNELL:

02:09:00 14 Q The "car," the "C-A-R," that's your
02:09:01 15 handwriting?

02:09:02 16 A Yes.

02:09:02 17 Q And you're not sure who did the rectangle to
02:09:06 18 indicate the car, or do you know who did that?

02:09:08 19 A That would have been Sam.

02:09:10 20 Q Okay. Okay. How about these squiggly lines in
02:09:16 21 the back and then, I don't know, it looks like
02:09:18 22 a circle and a triangle and some other things?
02:09:21 23 Do you know what that indicates?

02:09:22 24 A I don't know what that is. I don't remember.

02:09:23 25 Q Do you know who did it?

02:09:25 1 A No.

02:09:25 2 Q Okay. And Page -- or Exhibit 12, this is all

02:09:38 3 in your handwriting except where Mr. Hadaway

02:09:41 4 has signed it; is that right?

02:09:43 5 A Where he signed it and where my partner signed

02:09:46 6 it.

02:09:46 7 Q Okay. And then at the very -- let's see -- the

02:09:51 8 third-to-last page, Page MPD SJH747 --

02:10:01 9 A Okay.

02:10:02 10 Q -- is that -- or the last lines "I have had the

02:10:08 11 above statement read to me and it is true, Sam

02:10:11 12 Hadaway" with the date 10/27/95, that's

02:10:17 13 Mr. Hadaway's?

02:10:17 14 A Yes.

02:10:17 15 Q And then "I am sorry it had to turn out this

02:10:21 16 way and am sorry I had to lie the first two

02:10:24 17 days, but it came to me to tell the truth and

02:10:27 18 now I am here, Sam Hadaway, end 4:25," was that

02:10:27 19 all Mr. Hadaway?

02:10:27 20 A Yes.

02:10:30 21 Q The "2 cans of orange soda," is that your

02:10:34 22 writing again?

02:10:35 23 A Yes.

02:10:35 24 Q Okay. And that last part -- those two last

02:10:37 25 parts I've just read from Exhibit 12, that was

02:10:39 1 sort of part of your protocol to have the
02:10:42 2 individual write in their own words that the
02:10:44 3 statement had been either read to them or they
02:10:47 4 read it to themselves, right?

02:10:47 5 A Yes, my own way I did it, yes.

02:10:50 6 Q And then it was also your own way that you did
02:10:53 7 it to give the individual an opportunity to add
02:10:56 8 anything else that they wanted to?

02:10:57 9 A Yes.

02:10:58 10 Q Okay. Thank you. Now, you had indicated that
02:11:07 11 you had Mr. Hadaway read the Miranda rights,
02:11:10 12 right?

02:11:11 13 A Yes.

02:11:11 14 Q On a photocopy card, right?

02:11:15 15 A Yes.

02:11:16 16 Q And is that what you had him read which is the
02:11:19 17 second-to-last page of Exhibit 12, Bates 748?

02:11:24 18 A Yes.

02:11:24 19 Q And he's initialed it here and signed it along
02:11:27 20 with you?

02:11:28 21 A Yes.

02:11:28 22 Q Now, was that typical that you did in your
02:11:31 23 interrogations for everybody?

02:11:33 24 A Yes.

02:11:34 25 Q And you would include the signed Miranda

02:11:36 1 statements for everybody?

02:11:40 2 A As I recall, yes.

02:11:43 3 Q Did you have some concern that Mr. Hadaway
02:11:46 4 wasn't able to read?

02:11:50 5 A I wanted to make sure that he could read.

02:11:52 6 Q Why did you want to make sure he could read?

02:11:55 7 A Because I was -- part of building my rapport

02:11:59 8 with him was to know that he could read and

02:12:01 9 understand my questions and that he was

02:12:03 10 coherent enough to go on with the interview.

02:12:05 11 Q Did you have an understand -- well, did you
02:12:09 12 have an impression of Mr. Hadaway that he may
02:12:13 13 have limited education?

02:12:15 14 A Not that I recall.

02:12:16 15 Q How about limited cognitive functioning?

02:12:19 16 A No, not that I recall.

02:12:20 17 Q Do you remember observing him having weakness
02:12:24 18 on the left side of his body?

02:12:25 19 A I learned that, that he had cerebral palsy.

02:12:30 20 Q When did you learn that Sam Hadaway had
02:12:36 21 cerebral palsy?

02:12:36 22 A I believe when he was interviewed by Detective
02:12:39 23 Simons.

02:12:40 24 Q Okay. Did you -- did Mr. Hadaway tell you in
02:12:49 25 part of the time building your rapport with him

02:12:51 1 that he had cerebral palsy?

02:12:53 2 A Not that I recall.

02:12:55 3 Q And you went and got him from the jail and

02:12:56 4 transported him up to the CIB, correct?

02:13:00 5 A Yes.

02:13:00 6 Q So you observed Sam Hadaway walking?

02:13:04 7 A Yeah. He would have walked with me.

02:13:06 8 Q Do you remember observing any limitations in

02:13:09 9 his ability to walk?

02:13:10 10 A No.

02:13:10 11 Q Did you -- did Mr. Hadaway tell you that he had

02:13:18 12 a seizure disorder?

02:13:20 13 A Not that I recall.

02:13:21 14 Q Did Mr. Hadaway convey to you that he took

02:13:25 15 medicine to prevent him from suffering

02:13:28 16 seizures?

02:13:29 17 A Not that I recall.

02:13:30 18 Q And you don't recall providing any medication

02:13:32 19 for Mr. Hadaway, correct?

02:13:34 20 A No.

02:13:35 21 Q Do you deny that Mr. Hadaway told you he had a

02:13:41 22 seizure disorder, or you just don't know one

02:13:44 23 way or the other?

02:13:45 24 A I don't remember him saying anything about his

02:13:48 25 seizure disorder.

02:13:49 1 Q So he could have; you just don't remember?

02:13:51 2 A I don't recall.

02:13:52 3 Q Okay. But, I mean, by saying you don't recall
02:13:55 4 means he could have told you; you just don't
02:13:57 5 recall, correct?

02:13:59 6 A I would have documented it somewhere. If he
02:14:02 7 needed seizure medication, we would have got it
02:14:04 8 for him.

02:14:05 9 Q Is it your testimony that if Mr. Hadaway had
02:14:09 10 told you he had a seizure disorder you would
02:14:11 11 have put it in his statement?

02:14:13 12 A If he requested his medication, we would have
02:14:16 13 gotten it for him.

02:14:18 14 Q Would you have documented it if you did it?

02:14:27 15 A If he would have requested it, it would have
02:14:29 16 been documented.

02:14:30 17 Q Okay. And it's your testimony that you don't
02:15:04 18 believe you knew Sam Hadaway had cerebral palsy
02:15:10 19 until he was taken to be polygraphed?

02:15:13 20 A As I recall today, the way I found out about
02:15:19 21 cerebral palsy was through Detective Simons'
02:15:21 22 interview with him.

02:15:23 23 Q Okay. And you realize that that interview with
02:15:25 24 Detective Simons occurred after this October
02:15:27 25 27th interview, correct?

02:15:29 1 A That's correct.

02:15:29 2 Q Okay. Did you at any point in time in your
02:15:47 3 interrogation of Mr. Hadaway on October 27th,
02:15:50 4 1995, threaten him that he would spend 80 years
02:15:55 5 in prison for the murder of Jessica Payne?

02:15:57 6 A No.

02:15:58 7 Q It's your testimony that that didn't occur?

02:16:02 8 A That's correct.

02:16:03 9 Q Did you witness your partner, James
02:16:06 10 DeValkenaere, threaten Mr. Hadaway that he
02:16:09 11 would go to prison for 80 years for Jessica
02:16:12 12 Payne's murder?

02:16:12 13 A No.

02:16:13 14 Q Is it your testimony that that did not occur?

02:16:16 15 A Yes.

02:16:16 16 Q Did you make any promise to Mr. Hadaway that if
02:16:22 17 he implicated Chaunte Ott in the murder of
02:16:24 18 Jessica Payne that he'd only have to do five
02:16:26 19 years?

02:16:27 20 A No.

02:16:27 21 Q Did you witness your partner promise
02:16:31 22 Mr. Hadaway that if he implicated Chaunte Ott
02:16:34 23 in the murder of Jessica Payne he'd only have
02:16:37 24 to serve five years in prison?

02:16:39 25 A No.

02:16:39 1 Q Is it your testimony that didn't occur?

02:16:42 2 A Yes.

02:16:42 3 Q Did you threaten Sam Hadaway that if he went to

02:16:49 4 prison he'd be raped?

02:16:50 5 A No.

02:16:50 6 Q Did your partner, James DeValkenaere, threaten

02:16:53 7 Mr. Hadaway that if he went to prison he'd be

02:16:57 8 raped?

02:16:58 9 A No.

02:16:58 10 Q Is it your testimony that didn't occur?

02:17:00 11 A Yes.

02:17:00 12 Q Did you use any physical threat of violence

02:17:03 13 with Mr. Hadaway when you interrogated him?

02:17:05 14 A No.

02:17:05 15 Q Did you push over any furniture in the

02:17:08 16 interrogation room during your interrogation of

02:17:09 17 him?

02:17:10 18 A No.

02:17:10 19 Q Did you witness James DeValkenaere use any

02:17:13 20 threat of physical violence with Mr. Hadaway?

02:17:17 21 A No.

02:17:18 22 Q Did you witness your partner turn over any

02:17:20 23 furniture or chairs in the interrogation room

02:17:22 24 during the interrogation of Sam Hadaway?

02:17:25 25 A No.

02:17:27 1 Q Was any physical force used with Mr. Hadaway?

02:17:30 2 A No.

02:17:30 3 Q Did Mr. Hadaway deny any knowledge or
02:17:38 4 involvement in the Payne homicide in your
02:17:41 5 interrogation of him?

02:17:44 6 A No.

02:17:45 7 Q Do you have any knowledge of whether
02:17:51 8 Mr. Hadaway was provided his seizure medicine
02:17:53 9 in the time that he was in custody prior to
02:17:56 10 your interrogation of him?

02:17:58 11 MS. GEHLING: Objection; foundation.

02:18:02 12 MS. DONNELL: You can answer.

02:18:03 13 THE WITNESS: I wasn't aware he was
02:18:05 14 on medicine at the time.

02:18:05 15 BY MS. DONNELL:

02:18:06 16 Q So it's true you have no knowledge about
02:18:08 17 whether he was provided any medicine during his
02:18:11 18 custody, correct?

02:18:11 19 A I don't have -- no, I don't.

02:18:13 20 Q Okay. Do you have any knowledge, personal
02:18:18 21 knowledge, of Mr. Hadaway's meals he was
02:18:25 22 provided?

02:18:26 23 A No.

02:18:27 24 Q Do you know how long you were allowed to hold
02:18:39 25 somebody in custody before charges were

02:18:42 1 approved at that time?

02:18:45 2 A We had 48 hours to establish probable cause,
02:18:50 3 and after that's established, then you have 72
02:18:52 4 hours for charging.

02:18:54 5 Q Was there probable cause to hold -- to arrest
02:19:00 6 Mr. Hadaway -- well, strike that.

02:19:02 7 Was there probable cause to hold
02:19:04 8 Mr. Hadaway prior to your interrogation of him?

02:19:06 9 MS. GEHLING: Objection; foundation.
02:19:12 10 You can answer if you know.

02:19:15 11 THE WITNESS: I don't recall.

02:19:17 12 BY MS. DONNELL:

02:19:17 13 Q Based on the information that Mr. Gwin had
02:19:20 14 allegedly provided to you and your partner,
02:19:24 15 James DeValkenaere, was there probable cause,
02:19:26 16 in your view, to arrest Mr. Hadaway for the
02:19:29 17 Payne homicide?

02:19:30 18 A Yes.

02:19:30 19 Q Okay. Was there probable cause to seek charges
02:19:36 20 for Mr. Hadaway prior to your interrogation of
02:19:40 21 him on October 27th, 1995, at 2:00 p.m.?

02:19:45 22 A No.

02:19:45 23 Q Why not?

02:19:46 24 A It didn't -- there was no admission on his part
02:19:52 25 of being involved and Mr. Gwin wasn't a witness

02:19:56 1 to the homicide.

02:19:58 2 Q Is it fair to say that if in your interrogation
02:20:08 3 of Mr. Hadaway he had denied involvement or
02:20:13 4 knowledge, you would have had to let him go?

02:20:17 5 A Yes.

02:20:17 6 Q Okay. Are you aware as you sit here today of
02:20:22 7 what was the basis of probable cause to charge
02:20:25 8 Mr. Hadaway with Jessica Payne's murder?

02:20:28 9 A Based on his own statement.

02:20:30 10 Q Anything else?

02:20:32 11 A And Gwin's statement.

02:20:34 12 Q Anything else?

02:20:36 13 A No.

02:20:37 14 Q Is it fair to say none of the -- there was no
02:20:42 15 eyewitnesses to -- that ever linked Mr. Hadaway
02:20:46 16 to the Payne homicide?

02:20:47 17 A Correct.

02:20:47 18 Q And there was no physical evidence linking Sam
02:20:50 19 Hadaway to the Jessica Payne homicide?

02:20:51 20 A Correct.

02:20:52 21 Q And Mr. Ott never implicated Mr. Hadaway,
02:21:01 22 correct?

02:21:02 23 A No.

02:21:02 24 Q Okay. Whatever's easiest to look at, if you
02:21:42 25 want to look at Exhibit 12 or Exhibit 13 --

02:21:44 1 well, actually, before we do that, do you have
02:21:47 2 any memory of any of the specific questions you
02:21:51 3 asked Mr. Hadaway in this or -- well, strike
02:21:55 4 that.

02:21:55 5 Do you have any memory of the
02:21:58 6 specific questions that you asked Mr. Hadaway
02:22:01 7 other than the one you just testified to "What
02:22:03 8 did you want to tell us?"

02:22:05 9 A No.

02:22:06 10 Q Was this statement the product of a
02:22:11 11 back-and-forth of question or answering?

02:22:14 12 A Yes.

02:22:14 13 Q This isn't, like, a verbatim account of
02:22:17 14 Mr. Hadaway just telling you a bunch of things,
02:22:20 15 right?

02:22:21 16 A Correct.

02:22:21 17 Q And I believe you testified earlier your
02:22:23 18 practice was, you know, to have some background
02:22:25 19 questions, get a -- ask questions about the
02:22:26 20 incident, and then go back and write it out,
02:22:29 21 right?

02:22:29 22 A Yes.

02:22:29 23 Q And that's the protocol you followed for
02:22:32 24 Exhibit 12?

02:22:33 25 A Yes.

02:22:34 1 Q Okay. In Exhibit 12 or 13, there's a portion
02:22:41 2 in which Mr. Hadaway allegedly said that
02:22:44 3 Mr. Ott struck Mr. Payne -- Ms. Payne in the
02:22:47 4 face a number of times. Do you remember that?

02:22:49 5 A Yes.

02:22:49 6 Q Was there any evidence of bruising on
02:22:52 7 Ms. Payne's face?

02:22:53 8 A I don't recall.

02:22:55 9 Q I'm going to mark this as Exhibit 14. This is
02:23:05 10 the medical examiner's report.

02:23:18 11 (Exhibit No. 14 was marked.)

02:23:18 12 BY MS. DONNELL:

02:23:18 13 Q Okay. Mr. Buschmann, I'm handing you
02:23:21 14 Exhibit 14 which is the medical examiner and
02:23:24 15 toxicology report for Jessica Payne dated
02:23:25 16 August 30th, 1995, okay?

02:23:27 17 A Hm-hm, yes.

02:23:28 18 Q And this is something you read prior to your
02:23:30 19 involvement on the Payne homicide, right?

02:23:33 20 A Yes.

02:23:33 21 Q Okay. And if you -- you can review it, but I
02:23:38 22 can call your -- your attention to the page
02:23:41 23 that has Bates stamps MPD952 and 953 where it
02:23:46 24 says "Other Evidence of Trauma." It's -- it's
02:23:50 25 Section 11, Page 17 of the M file, and it has

02:23:53 1 Bates stamp 952, and there's a subsection that
02:24:03 2 says "Other Evidence of Trauma."
02:24:07 3 A Okay.
02:24:07 4 Q And it says "Other evidence of trauma is
02:24:10 5 limited to areas of contusion inclusive of a
02:24:11 6 small -- two small contusions along the medial
02:24:15 7 right costal margin," right?
02:24:17 8 A Yes.
02:24:17 9 Q "A contusion on the left medial costal margin
02:24:21 10 of the anterior chest wall," right?
02:24:23 11 A Yes.
02:24:23 12 Q "A contusion over the dorsum of the right
02:24:25 13 hand"?
02:24:26 14 A Yes.
02:24:26 15 Q "A superficial abrasion along the left groin,"
02:24:30 16 right?
02:24:30 17 A Yes.
02:24:30 18 Q And that's indicated as a "probable postmortem
02:24:35 19 artifact," right?
02:24:37 20 A Yes.
02:24:37 21 Q Then there's "A series of contusions along the
02:24:40 22 right leg anteriorly," and then there's various
02:24:43 23 measurements of those contusions along the
02:24:45 24 outside of the right leg, right?
02:24:46 25 A Yes.

02:24:47 1 Q And then there's "Two contusions on the left
02:24:49 2 anterior thigh" as well, right?

02:24:52 3 A Yes.

02:24:52 4 Q There is no evidence that the autopsy indicated
02:24:58 5 of any bruising or contusions on Ms. Payne's
02:25:01 6 face, right?

02:25:03 7 A Correct.

02:25:03 8 Q In terms of injuries to Ms. Payne, there's
02:25:28 9 nothing that Mr. Hadaway provided to you that
02:25:31 10 you didn't already know prior to your
02:25:33 11 interrogation of him on the 27th of October,
02:25:36 12 1995, correct?

02:25:40 13 A To Ms. Payne's --

02:25:41 14 Q Body.

02:25:42 15 A -- body? Correct.

02:25:44 16 Q And, in fact, the -- the statement that Chaunte
02:25:49 17 Ott struck her in the face, there was no
02:25:51 18 corroborating physical evidence in the
02:25:53 19 photographs or the medical examiner's report,
02:25:56 20 correct?

02:25:56 21 A No.

02:25:59 22 Q Okay. And -- and the same is true with the
02:26:15 23 statement of Mr. Richard Gwin, you also knew
02:26:19 24 the location that Ms. Gwin's [sic] body was
02:26:22 25 found before you ever talked to Mr. Hadaway or

02:26:25 1 Gwin, correct?

02:26:27 2 A Yes.

02:26:27 3 Q Okay. Now, it's fair to say that after your
02:26:30 4 conversation with Mr. Hadaway -- well, strike
02:26:37 5 that.

02:26:37 6 The next thing you did was take
02:26:40 7 Mr. Hadaway to meet with Mark Williams; is that
02:26:43 8 right?

02:26:43 9 A That happened eventually, yes. I don't know
02:26:45 10 exactly when it happened.

02:26:47 11 Q Okay. Sorry, that might not be the next thing.
02:27:00 12 Do you recall that your conversation with
02:27:02 13 Chaunte Ott that you spoke about occurred
02:27:04 14 before you talked to Mr. Hadaway?

02:27:08 15 A I don't recall.

02:27:11 16 Q Okay. I'm going to show you Exhibit 15 to see
02:27:14 17 if it refreshes your recollection.

02:27:27 18 (Exhibit No. 15 was marked.)

02:27:28 19 BY MS. DONNELL:

02:27:28 20 Q I'm showing you what I've designated as
02:27:31 21 Exhibit 15 to your deposition. It's Bates
02:27:32 22 stamped MPD570. It's from M file 3084,
02:27:35 23 Section 4, Page 294. Do you see -- do you
02:27:38 24 recognize this supp report from your partner,
02:27:42 25 James DeValkenaere, memorializing a

02:27:44 1 conversation with Chaunte Ott on October 26th,
02:27:47 2 1995?

02:27:47 3 A Yes.

02:27:48 4 Q And so that was the day before you talked to
02:27:51 5 Sam Hadaway, right?

02:27:52 6 A That's correct.

02:27:52 7 Q And this is where Mr. Ott denied any
02:27:56 8 involvement or knowledge of the Payne homicide,
02:28:02 9 right?

02:28:02 10 A Correct.

02:28:03 11 Q Okay. This is 16.

02:28:21 12 (Exhibit No. 16 was marked.)

02:28:21 13 BY MS. DONNELL:

02:28:21 14 Q Mr. Buschmann, I'm handing you what I've
02:28:24 15 designated as Exhibit 16 to your deposition.
02:28:26 16 This has Bates stamp MPD1162. Do you recognize
02:28:32 17 Exhibit -- and it's from M file 3084, Section
02:28:35 18 14, Page 1. Do you recognize Exhibit 16 as the
02:28:39 19 supp report for the charging conference that
02:28:41 20 occurred on Monday, October 30th?

02:28:44 21 A Yes.

02:28:44 22 Q And that was with District Attorney Mark
02:28:46 23 Williams?

02:28:47 24 A Correct.

02:28:47 25 Q And Mark Williams was the homicide DA, right?

02:28:52 1 A Correct.

02:28:52 2 Q And so you worked with him frequently even
02:28:55 3 before this homicide investigation?

02:28:59 4 A Yes.

02:28:59 5 Q Okay. Okay. Okay. The supp report you
02:29:26 6 prepared is dated November 6th, 1995; is that
02:29:31 7 right?

02:29:31 8 A Yes.

02:29:31 9 Q And so you met first for a charging conference
02:29:34 10 on October 30th; is that right?

02:29:38 11 A Yes.

02:29:39 12 Q But charges were not approved until the
02:29:43 13 following Monday on November 6th?

02:29:45 14 A Yes.

02:29:46 15 Q Okay. And did Mr. Williams indicate he had
02:29:54 16 concerns about the investigation and things he
02:29:58 17 wanted followed up on before he was willing to
02:30:00 18 charge Mr. Hadaway with the Payne homicide?

02:30:05 19 A Yes.

02:30:05 20 Q What was Mr. Williams concerned about?

02:30:08 21 A He wanted to make sure that both Gwin and
02:30:12 22 Hadaway were telling the truth.

02:30:14 23 Q Did Mark Williams indicate to you why he had
02:30:20 24 concerns of whether Gwin and Hadaway were
02:30:24 25 telling the truth about implicating them- --

02:30:29 1 Mr. Hadaway and Mr. Ott in the Payne homicide?

02:30:32 2 A It was the only evidence we had implicating
02:30:35 3 Chaunte Ott in the homicide.

02:30:41 4 Q Was Mark Williams concerned that there were no
02:30:52 5 eyewitnesses -- well, strike that.

02:30:53 6 Was Mark Williams concerned that
02:30:56 7 there was no physical evidence to corroborate
02:30:58 8 the statements?

02:31:00 9 MS. GEHLING: Objection; foundation.

02:31:01 10 THE WITNESS: Not that I recall.

02:31:03 11 BY MS. DONNELL:

02:31:06 12 Q Was Mark Williams concerned about Mr. Gwin as a
02:31:13 13 reliable witness?

02:31:14 14 MS. GEHLING: Objection; foundation.

02:31:15 15 THE WITNESS: I don't recall.

02:31:16 16 BY MS. DONNELL:

02:31:17 17 Q How about with respect to Mr. Hadaway? Was he
02:31:20 18 concerned about Mr. Hadaway?

02:31:22 19 MS. GEHLING: Objection; foundation.

02:31:23 20 THE WITNESS: I don't recall.

02:31:24 21 BY MS. DONNELL:

02:31:25 22 Q Do you recall him expressing any concerns to
02:31:27 23 you other than what you've just testified to
02:31:29 24 that the only evidence implicating Mr. Ott was
02:31:31 25 the two witness statements by Gwin and Hadaway?

02:31:34 1 A No.

02:31:35 2 Q Did -- well, Mr. Hadaway was taken to be

02:31:46 3 polygraphed the following day -- well, two days

02:31:50 4 later on November 1st, right?

02:31:51 5 A Yes.

02:31:51 6 Q Was that your decision?

02:31:57 7 A No.

02:31:57 8 Q Whose decision was it to polygraph Sam Hadaway?

02:32:01 9 A I believe it was the -- Mr. Williams'.

02:32:04 10 Q Why do you believe it was Mr. Williams'?

02:32:06 11 A Because he's the one that had the concerns

02:32:08 12 about both Hadaway and Gwin telling the truth.

02:32:15 13 I don't know -- I'm going to say I don't know

02:32:18 14 for sure who requested the polygraph.

02:32:21 15 Q Okay. Thank you for clarifying. When you say

02:32:26 16 Williams was the one -- Mark Williams was the

02:32:29 17 one that had concerns about Gwin and Hadaway

02:32:32 18 telling the truth about the Payne homicide and

02:32:35 19 any knowledge of it, did you share that concern

02:32:40 20 back in October/November 1995?

02:32:45 21 A Who did I -- who would I have shared that

02:32:48 22 concern with?

02:32:48 23 Q Did you share Mark Williams' concern about Gwin

02:32:51 24 and Hadaway telling the truth?

02:32:54 25 A Not that I recall.

02:32:55 1 Q You recall that being the prosecutor's concern,
02:32:58 2 but not yours?

02:33:00 3 A You're -- oh, I don't understand -- I didn't
02:33:03 4 understand the question.

02:33:04 5 Q Oh, thank you. Thanks for letting me know.
02:33:06 6 I'm happy to rephrase.

02:33:07 7 So you said Mark Williams had
02:33:10 8 concerns about Gwin and Hadaway telling the
02:33:11 9 truth about what they said implicating
02:33:13 10 Mr. Hadaway and Mr. Ott in the Payne homicide,
02:33:16 11 right?

02:33:16 12 A Correct.

02:33:16 13 Q And I'm asking did you share his concern? Did
02:33:19 14 you have the same concern?

02:33:20 15 A Yes, I did.

02:33:21 16 Q Okay. Why were you concerned about Gwin and
02:33:24 17 Hadaway telling the truth?

02:33:26 18 A Because that's the only evidence we had.

02:33:28 19 Q And why did that concern you as the homicide
02:33:30 20 detective?

02:33:31 21 A Because I'm not going to try to have an
02:33:34 22 innocent person charged with homicide without
02:33:37 23 going the extra steps of finding out if the
02:33:41 24 people that gave us statements were telling us
02:33:43 25 the truth.

02:33:43 1 Q But you took Hadaway and Ott to a charging
02:33:52 2 conference to seek charges or to seek approval
02:33:55 3 of charges, right?

02:33:59 4 A Not for Gwin.

02:34:00 5 Q Sorry. You weren't seeking charges for Gwin.
02:34:03 6 Thanks for clarifying. You were seeking
02:34:05 7 charges for Hadaway and Ott?

02:34:07 8 A We were having the case reviewed at that time.

02:34:09 9 Q And you were -- you were only proposing to have
02:34:13 10 charges for Hadaway and Ott?

02:34:16 11 A Yes.

02:34:17 12 Q But you are aware that there were criminal
02:34:22 13 charges that were possible charges that could
02:34:25 14 be brought against Mr. Gwin based on his
02:34:28 15 involvement?

02:34:29 16 MS. GEHLING: Objection; relevance.
02:34:32 17 You can answer.

02:34:32 18 THE WITNESS: No.

02:34:33 19 BY MS. DONNELL:

02:34:33 20 Q Well, do you understand what accessory to a
02:34:36 21 murder is?

02:34:37 22 A Yes. He didn't give a statement implicating
02:34:42 23 himself in the murder at all.

02:34:43 24 Q Okay. So it's your -- your belief back in
02:34:47 25 October 1995 that there was no criminal charges

02:34:51 1 for Mr. Gwin's conduct?

02:34:53 2 A Correct.

02:34:53 3 Q Okay. Had you made that promise to Mr. Gwin

02:35:04 4 that he couldn't be charged?

02:35:06 5 A No.

02:35:06 6 Q Why not?

02:35:08 7 A Because it's not my decision.

02:35:10 8 Q Okay. And Mr. Gwin was being brought to the

02:35:13 9 charging conference, right?

02:35:14 10 A Correct.

02:35:14 11 Q Okay. But it sounds to me like your testimony

02:35:18 12 is neither you or DeValkenaere thought Gwin

02:35:21 13 should be charged?

02:35:24 14 A No.

02:35:25 15 Q Okay. And -- but at that point on October 30th

02:35:32 16 when you were setting up the charging

02:35:35 17 conference with Mark Williams, you did think

02:35:37 18 that charges -- you were seeking review for

02:35:39 19 charging Mr. Ott and Mr. Hadaway, correct?

02:35:43 20 A Yes.

02:35:44 21 Q And it was at that point that Mr. Williams

02:35:46 22 indicated he had some concerns, right?

02:35:49 23 A I don't recall how it went in the charging

02:35:56 24 conference. I don't have independent

02:35:59 25 recollection of my conversation or the charging

02:36:03 1 conference itself.

02:36:04 2 Q But at the time that you brought Mr. Hadaway
02:36:11 3 and Mr. Ott to the charging conference, at that
02:36:15 4 point there wasn't any follow-up you and your
02:36:17 5 partner had planned to do before seeking
02:36:20 6 charges, right?

02:36:23 7 A I'm not sure if -- I don't recall if we had
02:36:28 8 another plan or if anything else was planned.
02:36:31 9 I do not recall that.

02:36:32 10 Q Okay. Other than the polygraph of Mr. Hadaway,
02:36:48 11 do you have a recollection as you sit here
02:36:50 12 today of any other steps you took to address
02:36:54 13 the concern about the only evidence being
02:36:58 14 Mr. Gwin and Mr. Hadaway?

02:37:04 15 A No, I don't recall.

02:37:06 16 Q Okay. Okay. Do you remember anything as you
02:37:39 17 sit here today about taking Sam Hadaway to
02:37:45 18 be -- for a polygraph examination?

02:37:47 19 A No.

02:37:47 20 Q Did you review any of the documentation related
02:37:52 21 to Sam Hadaway's polygraph examination to
02:37:55 22 prepare for your deposition?

02:37:57 23 A Yes, I read the statement prepared by Detective
02:38:01 24 Simons.

02:38:02 25 Q Okay. Did that refresh your recollection in

02:38:04 1 any way as to your involvement in that
02:38:07 2 polygraph examination and statement?

02:38:09 3 A Yes.

02:38:09 4 Q Do you have any independent recollection now as
02:38:14 5 you sit here today of the polygraph
02:38:16 6 examination?

02:38:17 7 A I remember just being called in by Detective
02:38:22 8 Simons to witness the statement.

02:38:24 9 Q Okay. This is going to be 17. This is going
02:38:24 10 to be 18 and 19.

02:38:48 11 (Exhibit Nos. 17 through 19 were marked.)

02:39:28 12 BY MS. DONNELL:

02:39:28 13 Q Okay. Mr. Buschmann, I'm handing you what I've
02:39:32 14 designated as Exhibits 17, 18, and 19, okay?

02:39:35 15 A Okay.

02:39:35 16 Q Do you recognize -- hopefully I didn't just
02:39:45 17 give you my copy. Oh, got it. Okay. Do you
02:39:50 18 recognize Exhibit 17 as the Milwaukee Police
02:39:54 19 Department polygraph examination report for the
02:39:56 20 examination that Examiner Simons conducted on
02:40:01 21 November 1st of 1995 of Mr. Hadaway?

02:40:05 22 A Yes.

02:40:05 23 Q And this is -- you again were the investigator
02:40:10 24 as the -- identified as the submitting officer,
02:40:12 25 right?

02:40:12 1 A Yes.

02:40:12 2 Q And this indicates that Mr. Hadaway was
02:40:16 3 examined between 9:31 a.m. and 10:06 a.m. on
02:40:19 4 November 1st?

02:40:30 5 A I can't read this. Yes.

02:40:35 6 Q Okay. And then do you recognize Exhibit 18 as
02:40:43 7 the handwritten statement of the post-polygraph
02:40:45 8 interrogation of Mr. Hadaway on November 1st?

02:40:48 9 A Yes.

02:40:49 10 Q And that indicates that on November 1st at
02:40:52 11 11:26 a.m. the subject was questioned at CIB,
02:40:56 12 right?

02:40:56 13 A Correct.

02:40:56 14 Q And you were present for this as well?

02:40:58 15 A Yes.

02:40:59 16 Q Okay. And you've also signed it on the back of
02:41:02 17 Exhibit 18?

02:41:03 18 A Yes.

02:41:03 19 Q Okay. And then Exhibit 19, do you recognize
02:41:07 20 that to be the supplementary report prepared by
02:41:11 21 Detective Simons about the post-polygraph
02:41:14 22 examination?

02:41:14 23 A Yes.

02:41:15 24 Q Okay. Okay. And you again would have spoken
02:41:32 25 to Detective Simons before he conducted this

02:41:39 1 examination of Mr. Hadaway, right?

02:41:41 2 A Yes.

02:41:41 3 Q And at this point in time was Mr. Hadaway still

02:41:43 4 under arrest?

02:41:45 5 A Yes.

02:41:45 6 Q For the Payne homicide?

02:41:48 7 A Yes.

02:41:48 8 Q Okay. And here Mr. Hadaway was asked if

02:42:03 9 Chaunte Ott cut that white girl's throat,

02:42:11 10 right? Or these are the relevant questions,

02:42:13 11 okay?

02:42:13 12 A Oh, okay.

02:42:14 13 MS. GEHLING: Oh, okay.

02:42:15 14 BY MS. DONNELL:

02:42:16 15 Q The relevant questions at the polygraph

02:42:20 16 examination were "Did Chaunte Ott cut the white

02:42:24 17 girl's throat," right?

02:42:25 18 A Yes.

02:42:25 19 Q "Did you," meaning Sam Hadaway, "cut the white

02:42:25 20 girl's throat," right?

02:42:27 21 A Right.

02:42:27 22 Q "While the white girl was fighting, did you

02:42:30 23 help hold her down," right?

02:42:32 24 A Right.

02:42:32 25 Q And then "Did you have any sexual contact with

02:42:34 1 the white girl," right?

02:42:36 2 A Yes.

02:42:36 3 Q And those questions about -- or strike that.

02:42:40 4 The information that you wanted in
02:42:43 5 the context of the Payne homicide investigation
02:42:46 6 after meeting with Mark Williams would have --
02:42:50 7 well, strike that. Let me strike that.

02:42:52 8 These questions would have come from
02:42:56 9 you and Detective -- well, strike that again.

02:42:59 10 The questions that Detective Simons
02:43:02 11 decided to ask were after his meeting with you
02:43:06 12 and your partner, right, or you? I'm sorry,
02:43:10 13 just you.

02:43:13 14 MS. GEHLING: Object to foundation.
02:43:14 15 You can answer if you know.

02:43:15 16 THE WITNESS: Yes.

02:43:15 17 BY MS. DONNELL:

02:43:15 18 Q And this November 1st polygraph and
02:43:19 19 post-polygraph interview, your partner wasn't
02:43:22 20 present for, right?

02:43:23 21 A I don't believe so.

02:43:24 22 Q Okay. Do you, as you sit here today, know why
02:43:30 23 Detective Simons was asking Mr. Hadaway if he
02:43:33 24 had sexual contact with Jessica Payne?

02:43:36 25 MS. GEHLING: Objection; foundation.

02:43:39 1 THE WITNESS: I don't.

02:43:40 2 BY MS. DONNELL:

02:43:42 3 Q But it's fair to say Detective Simons, he was

02:43:47 4 only -- was his -- he was not a homicide

02:43:48 5 detective; he was a polygraph examiner?

02:43:50 6 A Correct, and he worked in the robbery unit.

02:43:54 7 Q But he didn't work in homicide?

02:43:57 8 A He did not.

02:43:58 9 Q Okay. Okay. Looking at -- calling your

02:44:15 10 attention to Exhibit 18, on the back half, do

02:44:41 11 you see the paragraph that says "During the

02:44:43 12 interview, Sam and Detective Simons role-played

02:44:46 13 on what he did and what the white girl did"?

02:44:49 14 Do you see that?

02:44:49 15 A Yes.

02:44:50 16 Q And that "Sam held my hands about [sic] my head

02:44:55 17 just as he did to the white girl" to Detective

02:44:58 18 Simons. Do you see that?

02:44:59 19 A Yes.

02:44:59 20 Q Does this refresh your recollection of you

02:45:01 21 observing Sam Hadaway and Detective Simons

02:45:05 22 role-playing?

02:45:12 23 A I don't remember the role-playing.

02:45:14 24 Q Okay.

02:45:14 25 A I don't recall that, but I know that this is

02:45:22 1 when I found out about the -- that I remembered
02:45:26 2 about the weak left arm.

02:45:31 3 Q Okay. Did you make any promises to Sam Hadaway
02:45:47 4 on November 1st that if he implicated Chaunte
02:45:52 5 Ott he'd only have to go to prison for five
02:45:56 6 years?

02:45:56 7 A No.

02:45:56 8 Q Did you threaten Mr. Hadaway at any point on
02:45:59 9 November 1st that if he didn't implicate
02:46:00 10 Chaunte Ott that he would go to prison?

02:46:01 11 A No.

02:46:05 12 Q Did you witness or observe Detective Simons
02:46:09 13 make any promises to Sam Hadaway on November
02:46:12 14 1st?

02:46:12 15 A No.

02:46:12 16 Q Did you witness Detective Simons make any
02:46:18 17 threats to Sam Hadaway on November 1st?

02:46:21 18 A No.

02:46:22 19 Q And there's nothing -- no information that
02:46:26 20 Mr. Hadaway provided on November 1st, 1995,
02:46:29 21 that indicated any additional facts related to
02:46:32 22 any injuries to Ms. Payne, right?

02:46:35 23 A Correct.

02:46:35 24 Q The only new information he provided was about
02:46:40 25 holding her hand at some point?

02:46:42 1 A Correct.

02:46:43 2 Q Okay. Do you remember seeking a search warrant

02:46:58 3 to search Chaunte Ott's house?

02:47:02 4 A I know a search warrant was executed at his

02:47:06 5 house.

02:47:06 6 Q Were you part of the actual search?

02:47:37 7 A I would say yes. Yes.

02:47:39 8 Q Okay. Do you remember obtaining evidence

02:47:45 9 there?

02:47:45 10 A Yes.

02:47:45 11 Q What do you remember obtaining?

02:47:48 12 A Some knives.

02:47:50 13 Q Was there ever -- was there any evidence that

02:47:56 14 you obtained during the search of Chaunte Ott

02:48:00 15 that was ever linked by biological or

02:48:06 16 fingerprints or any other kind of evidence to

02:48:08 17 Ms. Payne's murder?

02:48:11 18 A Not conclusively.

02:48:13 19 Q What does that mean?

02:48:14 20 A The medical examiner looked at the instruments

02:48:19 21 we recovered --

02:48:23 22 Q Meaning the knives?

02:48:26 23 A Yeah. I'm sorry, yes.

02:48:28 24 -- and indicated that one of them

02:48:33 25 could have possibly been used.

02:48:34 1 Q That was just based on the shape or the size of
02:48:39 2 the knife?

02:48:39 3 A I -- I don't recall.

02:48:40 4 Q But there was no blood swab taken from any
02:48:43 5 knives or instruments obtained from Mr. Ott's
02:48:47 6 home that was linked to the blood of Jessica
02:48:49 7 Payne, correct?

02:48:50 8 A No.

02:48:50 9 Q Okay. This is Exhibit 20.

02:49:03 10 (Exhibit No. 20 was marked.)

02:49:03 11 BY MS. DONNELL:

02:49:16 12 Q I'm handing you what I've just designated as
02:49:20 13 Exhibit 20 to your deposition. This is an
02:49:22 14 affidavit in support of a search warrant
02:49:24 15 bearing Bates stamps MPD SJH756 consecutive to
02:49:30 16 760, and this is an affidavit in support of a
02:49:33 17 search warrant by you as the affiant, right?

02:49:36 18 A Yes.

02:49:36 19 Q Okay. On the second page of the search
02:50:02 20 warrant, you were providing some of the
02:50:05 21 information about how Jessica Payne was found,
02:50:10 22 right?

02:50:11 23 A Yes.

02:50:12 24 Q And that included that her bra was torn in the
02:50:17 25 mid front portion -- is that right -- at the

02:50:30 1 top, Jessica Payne's bra?

02:50:33 2 A Yes.

02:50:33 3 Q And that "he observed her pants were pulled

02:50:37 4 down to her ankles and the buttons unbuttoned,"

02:50:43 5 right?

02:50:43 6 A Yes.

02:50:43 7 Q And that she had bruising on her right hand,

02:50:43 8 right?

02:50:43 9 A Yes.

02:50:44 10 Q And a four-inch gash on her throat, right?

02:50:48 11 A Yes.

02:50:49 12 Q Okay. And you were seeking to seize any bloody

02:51:18 13 clothing in the home of Chaunte Ott and any

02:51:21 14 cutting -- and there may be a cutting device?

02:51:24 15 A Correct.

02:51:24 16 Q Okay. Was there another charging conference

02:51:33 17 after the polygraph and after the search of

02:51:39 18 Mr. Ott's home that you recall?

02:51:42 19 A Not that I recall, but they hadn't been

02:51:51 20 officially charged yet, so I would say there

02:51:55 21 probably was one.

02:51:56 22 Q Was that typically what was done, if charges

02:52:05 23 weren't approved, there'd be a second

02:52:07 24 conference?

02:52:07 25 A If there was follow-up to be conducted before a

02:52:10 1 final decision was made, yes.

02:52:12 2 Q Okay. And as you sit here today, do you have
02:52:18 3 an independent recollection of that?

02:52:19 4 A Of a second conference?

02:52:21 5 Q Yes.

02:52:21 6 A I do not.

02:52:22 7 Q Okay. I'm looking back at Exhibit 16.

02:52:45 8 A Yep. Yes.

02:52:46 9 Q There's no indication -- on Exhibit 16, it
02:52:52 10 indicates that "On Monday, November 6th, 1995,
02:52:56 11 after completing his review of the above
02:52:59 12 incident, ADA Williams proceeded to issue one
02:53:03 13 charge of first-degree intentional homicide,
02:53:06 14 party to a crime, and one count of attempted
02:53:06 15 robbery, party to a crime, against defendant,
02:53:08 16 Chaunte Ott," right?

02:53:09 17 A Yes.

02:53:10 18 Q And "one count of attempted robbery, party to a
02:53:13 19 crime, against defendant, Sam Hadaway," right?

02:53:15 20 A Correct.

02:53:16 21 Q And then it says "No charges were brought
02:53:18 22 against the subject, Richard Gwin"?

02:53:22 23 A Correct.

02:53:22 24 Q And there's no indication in this supplementary
02:53:24 25 report that you prepared of an additional

02:53:27 1 conference sometime after October 30th, right?

02:53:30 2 A Correct.

02:53:30 3 Q Okay. You were present for Mr. Ott's criminal
02:53:47 4 trial?

02:53:47 5 A Yes.

02:53:47 6 Q Okay. But you didn't testify?

02:53:50 7 A I did not.

02:53:51 8 Q Were you prepared to possibly testify?

02:53:55 9 A Yes.

02:53:56 10 Q Okay. And why -- what were you -- did Mark
02:54:00 11 Williams prepare you?

02:54:02 12 A Yes.

02:54:02 13 Q And in what -- what -- what was your testimony
02:54:08 14 going to be prepared to provide?

02:54:11 15 A If Hadaway or -- if Hadaway would have given
02:54:17 16 testimony contrary to his statement that he had
02:54:21 17 provided to me.

02:54:21 18 Q And was -- Gwin was not present to testify,
02:54:26 19 right?

02:54:28 20 A I believe Gwin did testify.

02:54:29 21 Q Oh, Gwin did testify, right. I'm sorry. So
02:54:32 22 was the same true for Gwin?

02:54:34 23 A Yes.

02:54:34 24 Q And at trial, Mr. Ott's trial, the entire
02:54:49 25 evidence against him was still just Gwin's

02:54:51 1 statement and Hadaway's statement, correct?

02:54:53 2 A Yes.

02:54:54 3 Q There was no physical evidence corroborating
02:54:58 4 anything that implicated Mr. Ott in that
02:55:00 5 homicide?

02:55:01 6 A Correct.

02:55:01 7 Q And there was no other evidence from other
02:55:03 8 witnesses that was developed before trial,
02:55:06 9 correct?

02:55:06 10 A Correct.

02:55:07 11 Q Okay. The same is true for Sam Hadaway, there
02:55:17 12 was nothing other than the statements that he
02:55:20 13 made and Mr. Gwin made, right?

02:55:24 14 A Correct.

02:55:25 15 Q There was no physical evidence corroborating
02:55:27 16 those statements?

02:55:28 17 A Correct.

02:55:28 18 Q And there was no eyewitnesses that ever
02:55:31 19 implicated Mr. Hadaway?

02:55:32 20 A Correct.

02:55:33 21 Q You -- I'm going to go back and ask you some
02:55:57 22 questions about the interrogation of
02:56:01 23 Mr. Hadaway back on October 27th, okay?

02:56:04 24 A Okay.

02:56:04 25 Q You previously testified that you spent

02:56:10 1 somewhere between 45 minutes to an hour
02:56:13 2 building a rapport when talking to Mr. Hadaway,
02:56:19 3 okay?
02:56:19 4 A Okay.
02:56:19 5 Q Do you want to see your testimony in that
02:56:22 6 regard?
02:56:23 7 A Is that from --
02:56:23 8 Q It's from the Ott dep on Page 102 and 103 if
02:56:28 9 you'd like to refer to that.
02:56:52 10 A Okay.
02:56:54 11 Q Does that refresh your recollection that the
02:56:56 12 first 45 minutes to an hour was spent talking
02:56:59 13 to Mr. Hadaway and you weren't documenting it
02:57:01 14 in any way?
02:57:02 15 A Correct.
02:57:04 16 Q Okay. You can put that down. Sorry. You also
02:57:22 17 previously testified that Mr. Hadaway was
02:57:26 18 emotional when you were interrogating him. Do
02:57:30 19 you remember that testimony?
02:57:30 20 A Yes.
02:57:31 21 Q Do you have an independent recollection of
02:57:34 22 Mr. Hadaway being emotional?
02:57:36 23 A Yes.
02:57:36 24 Q Can you describe what you mean by that? What
02:57:40 25 did you observe?

02:57:41 1 A He was crying at one point.

02:57:45 2 Q Like, actual tears?

02:57:48 3 A I don't know if they were actual tears, but he

02:57:52 4 was emotional and crying.

02:57:55 5 Q Anything else you observed?

02:57:57 6 A Not that I recall.

02:57:58 7 Q If you would turn your attention to Page 105 of

02:58:05 8 your deposition from June 30th, 2010, in

02:58:08 9 Exhibit 1, and do you see on Page 105 at Line

02:58:25 10 10 you testified he did show tears?

02:58:29 11 A Okay.

02:58:30 12 Q Does that refresh your recollection that you

02:58:32 13 observed Mr. Hadaway with actual tears?

02:58:36 14 A Yes.

02:58:37 15 Q Okay. And then at Line 12 you testified "That

02:58:46 16 was it. He was pretty much -- that was pretty

02:58:48 17 much it. He was pretty talkative. It wasn't

02:58:52 18 like, you know, I had to pull these answers

02:58:53 19 from him. As we talked, it flowed from him.

02:58:57 20 It was not a hard interview." Do you see that

02:58:58 21 testimony at Lines -- Page 105, Lines -- 105,

02:59:00 22 Lines 12 to 15?

02:59:01 23 A Yes.

02:59:01 24 Q Does that -- do you remember that?

02:59:03 25 A Yes.

02:59:03 1 Q Okay. Can you tell me about that? What does
02:59:07 2 it -- Mr. Hadaway wasn't a hard witness? What
02:59:10 3 do you mean?

02:59:11 4 A Because it was his doing that we were talking
02:59:14 5 to him in the first place. He initiated the
02:59:17 6 contact with us. He wanted to talk about the
02:59:22 7 event and decided that he wanted to tell the
02:59:27 8 truth, and it was a nonconfrontational type of
02:59:34 9 interview. He told us about what happened. We
02:59:40 10 asked questions in between, and it was very --
02:59:47 11 I don't want to say an easy interview, but it
02:59:52 12 was not a difficult interview.

02:59:54 13 Q Did you make -- well, strike that.

03:00:14 14 Do you remember any of that
03:00:15 15 back-and-forth with Mr. Hadaway, things you
03:00:18 16 were asking him or details you were asking him
03:00:21 17 to provide?

03:00:21 18 A Specific details, no.

03:00:23 19 Q But you -- it was a back-and-forth, right?

03:00:27 20 A Yes.

03:00:28 21 Q Was there any information you were hoping you
03:00:32 22 could elicit from Mr. Hadaway?

03:00:33 23 A Just the truth.

03:00:34 24 Q Did you try to seek to obtain -- was there
03:00:39 25 certain -- well, strike that.

03:00:44 1 Did you have any concerns that

03:00:48 2 Mr. Hadaway was of limited intelligence?

03:01:01 3 A No.

03:01:02 4 Q Did Mr. Hadaway convey to you that he was in

03:01:08 5 learning -- special education classes during --

03:01:11 6 A No, not to my knowledge.

03:01:13 7 Q You had also testified that you thought

03:01:23 8 Mr. Hadaway was remorseful, right?

03:01:26 9 A I don't recall.

03:01:30 10 Q Okay. Do you have any memory as you sit here

03:01:35 11 today of Mr. Hadaway being remorseful?

03:01:38 12 A Based on his writings at the end of the

03:01:43 13 statement, I would say he was remorseful.

03:01:45 14 Q Do you have any information other than what's

03:01:49 15 documented at the end of Mr. Hadaway's

03:01:52 16 handwritten statement other than that?

03:01:57 17 A No.

03:01:58 18 Q So you have no independent recollection of any

03:02:02 19 observations you made of Mr. Hadaway that you

03:02:07 20 would describe as being remorseful?

03:02:09 21 A That would go hand in hand with him being

03:02:13 22 emotional.

03:02:15 23 Q Okay. Other than your observation -- and when

03:02:24 24 you're saying "emotional," you're referring to

03:02:27 25 Mr. Hadaway as being tearful?

03:02:30 1 A Yes.

03:02:30 2 Q Anything else that you observed other than
03:02:32 3 Mr. Hadaway being tearful that you would
03:02:34 4 describe as being emotional?

03:02:35 5 A Not that I recall.

03:02:36 6 Q Okay. Is it true that one of the things you
03:02:48 7 did during your interrogation of Mr. Hadaway is
03:02:51 8 to provide him a copy of Mr. Gwin's statement
03:02:57 9 that he had given to you and Detective
03:03:00 10 DeValkenaere on the 25th?

03:03:01 11 A No, I don't recall that.

03:03:03 12 Q You don't recall that, but -- as you sit here
03:03:07 13 today, but is it -- are you denying that you
03:03:10 14 did it, or you just don't remember --

03:03:10 15 A I don't remember --

03:03:12 16 Q -- one way or the other?

03:03:13 17 A I don't remember doing that.

03:03:15 18 Q Okay. Is that something that you would do from
03:03:17 19 time to time if you were interrogating a
03:03:20 20 suspect, provide them a copy of a witness
03:03:21 21 statement against them?

03:03:23 22 A No.

03:03:23 23 Q You never did that?

03:03:27 24 A I would never give a -- a person a copy of
03:03:30 25 another defendant's or suspect's report.

03:03:33 1 Q Well, how about just a witness? At this point
03:03:35 2 you didn't think Gwin was -- had implicated
03:03:40 3 himself in any criminal conduct. Would you
03:03:43 4 have told Mr. Hadaway "We have this evidence
03:03:47 5 against you from Richard Gwin"?

03:03:49 6 A I could have told him that.

03:03:50 7 Q But you don't think you would have provided the
03:03:53 8 actual statement?

03:03:53 9 A I would never have provided him with the
03:03:58 10 statement.

03:03:58 11 Q Okay. So you deny doing that?

03:03:59 12 A Where he would have physical possession of the
03:04:01 13 statement? No.

03:04:02 14 Q Would you have it in your physical possession
03:04:04 15 and be reading from it to Mr. Hadaway? Could
03:04:08 16 that happen?

03:04:08 17 A That could happen.

03:04:09 18 Q Okay. That's something you've done before?

03:04:11 19 A Yes.

03:04:11 20 Q Okay. And you'd do that to sort of demonstrate
03:04:15 21 to the suspect that you have actual evidence
03:04:17 22 against them from another witness?

03:04:19 23 A It's a good -- in good faith.

03:04:21 24 Q What do you mean "in good faith"?

03:04:23 25 A That what I was telling them was the truth and

03:04:28 1 so that he can tell that I'm not lying to him
03:04:32 2 about it, these things. In good faith, I would
03:04:36 3 show him where his name was mentioned in the
03:04:39 4 other statement, but I would not read that
03:04:42 5 statement verbatim to him.

03:04:44 6 Q So you might show him the physical copy and
03:04:47 7 point to his name?

03:04:48 8 A Correct.

03:04:48 9 Q And that would be a technique you could use in
03:04:51 10 interrogation to demonstrate, "Hey, we have
03:04:55 11 evidence against you"?

03:04:56 12 A Correct.

03:04:56 13 Q Okay. Do you remember doing that in the
03:05:00 14 context of Mr. Hadaway's interrogation?

03:05:04 15 A Not specifically, no.

03:05:06 16 Q But it's a technique that you have used from
03:05:10 17 time to time in interrogations of homicide
03:05:11 18 suspects?

03:05:12 19 A I have used it in the past.

03:05:14 20 Q Okay. Did you -- in your interrogation of
03:05:26 21 Mr. Hadaway, did you tell Mr. Hadaway that
03:05:29 22 Jessica Payne's body was found under a
03:05:32 23 mattress?

03:05:32 24 A No.

03:05:32 25 Q Did Jim DeValkenaere tell Sam Hadaway that

03:05:36 1 Jessica Payne's body was found under a
03:05:38 2 mattress?
03:05:38 3 A No.
03:05:38 4 Q Did you tell Mr. Hadaway that her --
03:05:42 5 Ms. Payne's neck had been cut?
03:05:43 6 A No.
03:05:44 7 Q Did Jim DeValkenaere do that?
03:05:46 8 A No.
03:05:46 9 Q Did you tell Sam Hadaway that Ms. Hadaway --
03:05:49 10 Ms. Payne -- I'm sorry, strike that.
03:05:51 11 Did you tell Sam Hadaway that
03:05:55 12 Ms. Payne was found with her shirt pulled up?
03:05:57 13 A No.
03:05:57 14 Q Did you tell Sam Hadaway that Ms. Payne was
03:06:01 15 found with her pants pulled down?
03:06:03 16 A No.
03:06:03 17 Q Did Jim DeValkenaere tell Sam Hadaway that
03:06:07 18 Ms. Payne was found with her shirt pulled up?
03:06:09 19 A Not that I recall, no.
03:06:10 20 Q And did Jim DeValkenaere tell Sam Hadaway that
03:06:15 21 Ms. Payne was found with her pants down?
03:06:16 22 A No.
03:07:46 23 Q Okay. I'm going to switch gears and move
03:07:51 24 forward in time, okay? Do you remember being
03:07:56 25 partners with Michael Wesolowski between 2000

03:08:02 1 and 2004?

03:08:04 2 A Yes.

03:08:04 3 Q And, again, I'm sorry about his passing. Were

03:08:17 4 you guys in the homicide unit when you were

03:08:19 5 partners?

03:08:20 6 A Yes.

03:08:21 7 Q Okay. So sometime after Mr. Ott's criminal

03:08:30 8 trial in 1996 you moved to -- I'm sorry, was it

03:08:35 9 crimes against persons or robberies?

03:08:38 10 A Robberies.

03:08:38 11 Q So you went to bank robberies?

03:08:41 12 A Yes.

03:08:41 13 Q And then by 2000 you came back to homicide?

03:08:45 14 A Yes.

03:08:45 15 Q Okay. And at that point you and Detective

03:08:51 16 Wesolowski were partners?

03:08:52 17 A Yes.

03:08:53 18 Q Had you requested to be partners together?

03:08:55 19 A It was his request.

03:09:00 20 Q Okay. Were you guys -- had you been -- worked

03:09:03 21 together prior to that time?

03:09:04 22 A Yes.

03:09:05 23 Q When had you guys worked together, in bank

03:09:09 24 robberies?

03:09:09 25 A No, we were police officers together.

03:09:11 1 Q Okay. Did you guys go to the academy together?

03:09:14 2 A No.

03:09:14 3 Q And you're saying it was his request, not your

03:09:20 4 request to be together?

03:09:22 5 A He was already in the unit and he requested

03:09:24 6 that I come back.

03:09:26 7 Q Did he ask you about it before he made that

03:09:29 8 request?

03:09:30 9 A Yes.

03:09:30 10 Q But you didn't put in a similar request?

03:09:34 11 A No.

03:09:34 12 Q Okay. Why not?

03:09:35 13 A I don't know.

03:09:40 14 Q Okay. But you weren't, like, objecting to

03:09:53 15 being transferred back to homicide, right?

03:09:55 16 A No.

03:09:55 17 Q Why did you leave homicide -- or did you leave

03:10:11 18 homicide after you guys stopped being partners,

03:10:13 19 or you continued in homicide and just had

03:10:16 20 another partner?

03:10:17 21 A After --

03:10:18 22 Q Wesolowski.

03:10:20 23 A After he retired, then I got a new partner.

03:10:22 24 Q I see. Okay. Okay. So during the time that

03:10:32 25 you were partners with Detective Wesolowski and

03:10:37 1 back in the homicide unit, do you remember
03:10:40 2 there was DNA testing that linked DNA from
03:10:46 3 Ms. Payne to the Joyce Mims homicide? Do you
03:10:51 4 remember that?

03:10:51 5 A I recall something like that.

03:10:53 6 Q Okay. What do you recall about that?

03:10:54 7 A Just what you said, that there was DNA found on
03:10:59 8 Mims that linked to Jessica Payne.

03:11:02 9 Q When do you recall first learning that
03:11:05 10 information?

03:11:06 11 A I don't recall.

03:11:07 12 Q What do you recall doing, if anything, after
03:11:15 13 you learned that DNA from Jessica Payne was
03:11:24 14 linked to DNA obtained from Joyce Mims?

03:11:31 15 A I don't know what I did.

03:11:32 16 Q Is it possible you did nothing?

03:11:35 17 A Yes.

03:11:36 18 Q Do you remember who gave that information to
03:11:44 19 you?

03:11:44 20 A I don't think that information was given
03:11:46 21 directly to me.

03:11:48 22 Q Who did you get that information from, if you
03:11:52 23 recall?

03:11:52 24 A I don't know. I don't recall.

03:11:56 25 Q Did you work on the Joyce Mims homicide also?

03:12:05 1 A No, I don't -- I don't think I did.

03:12:07 2 Q Okay. Do you remember how many homicides you

03:12:30 3 worked of women who had been killed in the

03:12:37 4 North Milwaukee area that had been strangled or

03:12:39 5 cut in their throat?

03:12:44 6 A No.

03:12:44 7 Q But it's fair to say there was more than just

03:12:47 8 Ms. Payne, correct?

03:12:50 9 A That I was involved in?

03:12:51 10 Q Yep.

03:12:52 11 A I -- I don't recall.

03:12:53 12 Q Okay. Do you remember working on the Sheila

03:13:02 13 Farrior homicide?

03:13:03 14 A No.

03:13:03 15 Q How about Ophelia Preston?

03:13:11 16 A Yes.

03:13:12 17 Q McCormick? I'm trying to think of McCormick's

03:13:21 18 first name. Do you remember working on the

03:13:28 19 McCormick homicide?

03:13:29 20 A No.

03:13:30 21 Q How about Carron Kilpatrick?

03:13:34 22 A No.

03:13:35 23 Q Okay. Can you --

03:13:45 24 MS. GEHLING: Florence McCormick.

03:13:45 25 MS. DONNELL: Florence McCormick?

03:13:48 1 Thanks so much.

03:13:48 2 BY MS. DONNELL:

03:13:55 3 Q Florence McCormick?

03:13:58 4 A No.

03:13:58 5 Q This will be 21. This is 22.

03:14:24 6 (Exhibit Nos. 21 and 22 were marked.)

03:14:29 7 BY MS. DONNELL:

03:14:30 8 Q Okay. I'm first handing you what it's
03:14:32 9 designated -- I've designated as Exhibit 21 to
03:14:34 10 your deposition. Do you recognize Exhibit 21
03:14:36 11 as a Wisconsin Department of Justice crime
03:14:40 12 laboratory report?

03:14:41 13 A Yes.

03:14:42 14 Q And you've seen this report before, right?

03:14:44 15 A Yes.

03:14:45 16 Q And this is a report that's dated May 22nd,
03:14:49 17 2003?

03:14:49 18 A Yes.

03:14:50 19 Q And do you see at the bottom that it's received
03:14:54 20 June 18th, 2003?

03:14:57 21 A Yes.

03:14:57 22 Q I'm going to represent to you in the Ott
03:15:00 23 litigation, the City of Milwaukee provided
03:15:02 24 discovery responses that admitted it received
03:15:05 25 this report on June 18th, 2003, okay?

03:15:09 1 A Okay.

03:15:09 2 Q Is any of this handwriting yours on Exhibit 21?

03:15:15 3 A No.

03:15:15 4 Q You see here, though, that your name is at the

03:15:20 5 bottom right-hand corner?

03:15:22 6 A Yes.

03:15:22 7 Q Do you know whose handwriting that's in?

03:15:26 8 A I have no idea.

03:15:26 9 Q Would you recognize Michael Wesolowski's

03:15:30 10 handwriting?

03:15:30 11 A I don't know.

03:15:31 12 Q What was the process -- do you know, did that

03:15:40 13 name indicate that that means this report was

03:15:43 14 to go to you?

03:15:44 15 A I have no idea.

03:15:47 16 Q Okay. Is it accurate to say that when crime

03:15:52 17 lab reports from the state crime lab would come

03:15:55 18 in on a homicide they would be sent to the

03:15:57 19 attention of one of the lead detectives?

03:16:00 20 MS. GEHLING: Objection; foundation.

03:16:03 21 THE WITNESS: Not from the crime lab.

03:16:05 22 BY MS. DONNELL:

03:16:05 23 Q Somebody in the police department would route

03:16:07 24 it to the detective, one of the detectives on

03:16:11 25 the case?

03:16:13 1 A Yes.

03:16:14 2 Q Okay. If you look at Exhibit -- here, I'm
03:16:17 3 going to hand you what's Exhibit 22 to your
03:16:19 4 deposition which is Bates MPD SJH863, okay, and
03:16:26 5 864. Do you see this is a Wisconsin crime lab
03:16:30 6 report dated June 5th, 2003. Do you see that?

03:16:35 7 A Yes.

03:16:35 8 Q And this report is also for the Jessica Payne
03:16:37 9 homicide?

03:16:38 10 A Yes.

03:16:38 11 Q And I think I forgot to ask you -- tell you,
03:16:41 12 like, the -- there's an M file number, murder
03:16:43 13 file number, at the top of both Exhibit 21 and
03:16:46 14 22 of 3084, right?

03:16:48 15 A Yes.

03:16:48 16 Q And that's the Payne homicide number for the
03:16:51 17 Milwaukee Police Department?

03:16:51 18 A Correct.

03:16:52 19 Q Okay. And do you see on Exhibit 22 there's a
03:17:01 20 stamp that says "October 6th, 2003"? Do you
03:17:05 21 see that?

03:17:05 22 A Yes.

03:17:05 23 Q And do you see here it's also written on here
03:17:08 24 at the top "Buschmann" at the -- at the -- just
03:17:12 25 over the stamp on Exhibit 22? So on --

03:17:17 1 A Yes.

03:17:17 2 Q -- Page 2 of Exhibit -- the June 5th, 2003,

03:17:21 3 report, on the second page --

03:17:21 4 A Yes.

03:17:21 5 Q -- do you see that your name is written,

03:17:23 6 "Buschmann"?

03:17:23 7 A I do.

03:17:24 8 Q And then in the stamp under -- after the

03:17:26 9 office, it says "Det. Carl Buschmann"?

03:17:30 10 A Yep.

03:17:30 11 Q Is that your signature?

03:17:31 12 A Yes, it is.

03:17:32 13 Q Okay. So was it your practice to sign crime

03:17:38 14 lab reports when you received them?

03:17:40 15 A Yes.

03:17:40 16 Q And so Exhibit 22 indicates to you that you did

03:17:44 17 receive Exhibit 22, the June 5th, 2003, report,

03:17:49 18 right?

03:17:49 19 A Yes.

03:17:50 20 Q Okay. And -- okay. So looking back at

03:18:12 21 Exhibit 21 from the crime lab, this is the May

03:18:15 22 22nd, 2003, report.

03:18:18 23 A Hm-hm.

03:18:19 24 Q This report indicates that a short tandem

03:18:30 25 repeat (STR) DNA profile consistent of having

03:18:33 1 originated from a mixture of DNA from Jessica
03:18:36 2 Payne and an unknown male individual was
03:18:36 3 developed from the vaginal swab remainder that
03:18:39 4 was Item B1a, right?

03:18:42 5 A Yes.

03:18:42 6 Q And that profile -- on September 24th, an
03:18:51 7 initial search of the unknown male STR profile
03:18:54 8 against the Wisconsin DNA Databank didn't
03:18:56 9 reveal any matches, right?

03:18:58 10 A Right.

03:18:59 11 Q And then on May 19th, 2003, a second search of
03:19:03 12 the evidentiary profile was run against the
03:19:05 13 Wisconsin DNA Databank and resulted in a match
03:19:08 14 between the STR profile developed from
03:19:11 15 Ms. Payne's vaginal swab remainder and an
03:19:13 16 evidentiary profile from the June 20th, 1997,
03:19:17 17 homicide, also from the City of Milwaukee, and
03:19:18 18 the victim was Joyce Mims, right?

03:19:21 19 A Yes.

03:19:21 20 Q And so the STR profile of the unknown male
03:19:26 21 evidentiary sample from the vaginal swab of
03:19:28 22 Ms. Mims was linked by -- with -- by the DNA
03:19:34 23 Databank to the unknown male evidentiary
03:19:36 24 profile obtained from the vaginal swab of
03:19:39 25 Ms. Payne, right?

03:19:40 1 A Yes.

03:19:40 2 Q That these evidentiary -- then it indicates
03:19:58 3 that these evidentiary profiles from Ms. Payne
03:20:00 4 and Ms. Mims are going to continue to be
03:20:03 5 routinely searched against the national and
03:20:05 6 state -- at the national and state levels,
03:20:08 7 right?

03:20:09 8 A Yes.

03:20:09 9 Q And then the lab's indicating to the -- to you
03:20:13 10 or to the Milwaukee Police Department that if
03:20:14 11 there's any additional matches, the department
03:20:17 12 will be notified, right?

03:20:18 13 A Yes.

03:20:18 14 Q And do you consider the information that's
03:20:29 15 documented in Exhibit 21 as important
03:20:34 16 investigatory information to be followed up on?

03:20:36 17 A Yes.

03:20:41 18 Q Why?

03:20:42 19 A Well, they want -- it would be important to
03:20:44 20 identify the supplier of the DNA that was found
03:20:48 21 on both Jessica Payne and the other, Mims.

03:20:55 22 Q And why, as a homicide detective, would you
03:21:01 23 want to follow up on that information?

03:21:08 24 A Because it could be important to the
03:21:10 25 investigation.

03:21:14 1 Q Is that because it may indicate a common
03:21:18 2 perpetrator?

03:21:20 3 A That's what it says.

03:21:21 4 Q Because the unknown male evidentiary profile of
03:21:26 5 two of these homicide victims were the --
03:21:29 6 appearing to be the same person, right?

03:21:32 7 A Yes.

03:21:36 8 Q Okay. And in the Exhibit 22, the June 5th,
03:21:42 9 2003, report, that evidentiary profile that was
03:21:47 10 obtained from the vaginal swab of Ms. Payne
03:21:51 11 that was B1 designated sub-designation B1a was
03:21:56 12 run against the standard for the DNA profile of
03:22:01 13 Walter Moffett, Chaunte Ott, Richard Gwin, and
03:22:05 14 Sam Hadaway, right?

03:22:06 15 A Yes.

03:22:06 16 Q And all of those individuals were excluded as
03:22:10 17 being the contributor to the unknown male
03:22:14 18 profile of B1a, correct?

03:22:16 19 A Correct.

03:22:17 20 Q Okay. Do you consider that important -- well,
03:22:27 21 strike that.

03:22:27 22 Do you consider that -- these two
03:22:30 23 pieces of information, Exhibit 1 and Exhibit --
03:22:31 24 I mean Exhibit 21 and Exhibit 22 as also
03:22:36 25 important investigatory information to be

03:22:38 1 followed up on?

03:22:39 2 A I don't see where it would be followed up on.
03:22:44 3 It was just an elimination of known people that
03:22:47 4 had contact with Jessica Payne. I don't know
03:22:52 5 where the follow-up would go from there because
03:22:54 6 the -- the DNA sample had not been identified.

03:22:59 7 Q Sure. But as a homicide detective, if you are
03:23:03 8 receiving information that there's a possible
03:23:06 9 link through DNA evidence of two homicide
03:23:10 10 victims, Ms. Payne and Ms. Mims, who were
03:23:13 11 killed approximately, you know, two years apart
03:23:19 12 and that individuals that had been suspects in
03:23:24 13 one of those, in the Payne homicide, were
03:23:28 14 excluded as the contributors, does that suggest
03:23:31 15 to you that somebody else did that crime?

03:23:35 16 A No.

03:23:35 17 Q Why not?

03:23:36 18 A Because the fact that Chaunte Ott allegedly
03:23:43 19 killed her doesn't mean that he had sex with
03:23:46 20 her, and she was having sex with other people.
03:23:52 21 We know that she was having sex with other
03:23:57 22 people which could attribute itself to the DNA
03:24:02 23 that was left. Her lifestyle, staying at where
03:24:09 24 she was staying, she was prostituting herself,
03:24:14 25 and she could have had sex with numerous men

03:24:18 1 that could have been the contributors to that
03:24:20 2 DNA.

03:24:21 3 Q So you would want to follow up on that
03:24:23 4 information, but it wouldn't necessarily be
03:24:25 5 preclusive, in your mind?

03:24:26 6 A Well, we did follow up, and that's why all
03:24:28 7 these people were tested.

03:24:29 8 Q Okay. Did you request that all of these people
03:24:37 9 be tested that were tested and reported in the
03:24:40 10 June 5th, 2003, report?

03:24:47 11 A Yes, I believe it was me.

03:24:49 12 Q Okay. And that's because you -- you signed
03:24:52 13 your name here?

03:24:52 14 A Yes.

03:24:53 15 Q Okay. Do you remember having any conversations
03:24:56 16 with the lab about that?

03:24:59 17 A No, I don't.

03:25:01 18 Q How about with your supervisors?

03:25:04 19 A I don't recall.

03:25:05 20 Q How about with your partner, Michael
03:25:10 21 Wesolowski?

03:25:10 22 A I -- again, I don't recall.

03:25:12 23 Q Okay. But as you sit here today, you think you
03:25:18 24 probably requested the follow-up investigation
03:25:22 25 to see if the unknown male profile could be run

03:25:28 1 against the standards that were collected from
03:25:31 2 various individuals, including Ott, Gwin, and
03:25:35 3 Hadaway?

03:25:36 4 A I would say yes, the fact that my signature is
03:25:39 5 on this report.

03:25:40 6 Q Okay. Do you remember what, if anything, you
03:25:57 7 did with the information you obtained from the
03:26:00 8 June 5th, 2003, report once you obtained it?

03:26:07 9 A I -- I don't think I ever saw that report.

03:26:12 10 Q I'm sorry, Exhibit 22, the one that has your
03:26:15 11 name on it.

03:26:16 12 A Oh, okay.

03:26:17 13 Q Do you remember what you -- what, if anything,
03:26:19 14 you did with the information once you got this
03:26:21 15 report from the lab?

03:26:23 16 A The lab report should have been forwarded to
03:26:26 17 the district attorney's office.

03:26:28 18 Q Do you have any independent recollection of
03:26:33 19 providing the June 5th, 2003, report to the
03:26:37 20 district attorney's office?

03:26:37 21 A I do not.

03:26:39 22 Q Okay. Looking at both Exhibit 21 and Exhibit
03:26:44 23 22, is it fair to assume that you actually had
03:26:48 24 the information in the May 22nd, 2003, report
03:26:53 25 and that's what resulted in the follow-up

03:26:55 1 investigation reported in the June 5th report?

03:27:06 2 A I don't -- like, I don't recall seeing this
03:27:10 3 report.

03:27:11 4 Q Exhibit 21, just for the record? You don't
03:27:14 5 recall ever seeing Exhibit 21?

03:27:15 6 A Okay. Right, I don't recall seeing this
03:27:18 7 report. Whether it triggered this, it's a good
03:27:21 8 possibility, but, again, I don't recall the
03:27:27 9 circumstances around it.

03:27:28 10 Q It's -- right. That makes sense. So is it
03:27:35 11 accurate -- I think your testimony is seeing
03:27:38 12 Exhibit 21 and Exhibit 22 doesn't refresh your
03:27:40 13 recollection as you sit here today about
03:27:44 14 receiving the information contained in the May
03:27:46 15 22nd, 2003, report from the crime lab that
03:27:50 16 linked the evidentiary profile obtained from
03:27:53 17 the vaginal swab of Ms. Payne to the
03:27:55 18 evidentiary male profile obtained from the
03:27:58 19 vaginal swab of Ms. Mims, right?

03:28:00 20 A Correct.

03:28:00 21 Q However, as you sit here today, reviewing
03:28:03 22 Exhibit 22 and the additional testing of
03:28:08 23 running various standards obtained from
03:28:11 24 suspects in the Payne homicide against the
03:28:14 25 vaginal swab obtained from Ms. Payne to see if

03:28:18 1 there was any connection, they seem like they
03:28:22 2 could be connected? In other words, Exhibit 22
03:28:25 3 could have been a follow-up investigation
03:28:28 4 requested after the information about Payne
03:28:31 5 being linked to the Mims homicide?

03:28:35 6 A Could have been.

03:28:36 7 Q That's a reasonable assumption?

03:28:40 8 A Yes.

03:28:41 9 Q Okay. And you don't recall specifically
03:28:48 10 providing the June 5th, 2003, report or
03:28:52 11 information contained in it to Mark Williams;
03:28:55 12 is that right?

03:28:55 13 A Correct.

03:28:56 14 Q Okay. Was there a policy and procedure that
03:29:06 15 provided these reports to the district
03:29:09 16 attorney's office directly, or did the
03:29:12 17 requesting agency have to provide that
03:29:15 18 information to the DA's office?

03:29:17 19 MS. GEHLING: Objection; foundation.

03:29:18 20 MS. DONNELL: If you know.

03:29:19 21 THE WITNESS: I'm not sure.

03:29:19 22 BY MS. DONNELL:

03:29:20 23 Q Okay. Do you recall, as you sit here today,
03:29:59 24 receiving any additional DNA reports that
03:30:03 25 linked evidentiary DNA profiles of unknown

03:30:08 1 males to the Mims, Payne, and additional
03:30:14 2 homicides?
03:30:15 3 A No.
03:30:43 4 Q Do you recall, as you sit here today, any
03:30:49 5 follow-up investigation you requested after
03:30:51 6 receiving the June 5th, 2003, DNA report from
03:30:57 7 the Wisconsin crime lab?
03:31:00 8 A No.
03:31:29 9 Q Did you ever -- do you know Gilbert Hernandez?
03:31:35 10 A Yes.
03:31:35 11 Q Did you and Gilbert Hernandez work together in
03:31:39 12 the homicide unit at any point in your career?
03:31:41 13 A No.
03:31:42 14 Q How do you know Gilbert Hernandez?
03:31:46 15 A He's a fellow detective.
03:31:47 16 Q But in a different unit?
03:31:49 17 A He worked homicide on a different shift.
03:31:52 18 Q Okay. So you were both in homicide, just
03:31:55 19 different shifts?
03:31:55 20 A Correct.
03:31:56 21 Q And how about Katherine Hein?
03:32:02 22 A Yes, I know her.
03:32:03 23 Q Are you social friends with either one of them?
03:32:06 24 A No.
03:32:06 25 Q Did you have any conversations with Gilbert

03:32:13 1 Hein [sic] or Katherine Hein about their
03:32:16 2 investigation of Walter Ellis?

03:32:18 3 A No.

03:32:18 4 Q Did you have any conversations with any
03:32:20 5 Milwaukee Police Department detectives
03:32:23 6 investigating Walter Ellis ever?

03:32:28 7 A Ever?

03:32:29 8 Q Yeah.

03:32:29 9 A Not that I recall.

03:32:30 10 Q Did you only read about Walter Ellis in the
03:32:35 11 newspaper? Well, strike that.

03:32:39 12 Other than conversations with your
03:32:40 13 attorneys, did you obtain information related
03:32:43 14 to Walter Ellis from any other sources other
03:32:49 15 than the newspaper?

03:32:50 16 A I don't recall hearing the name Walter Ellis
03:32:53 17 until he was arrested.

03:32:56 18 Q And after his arrest, did you have any
03:32:58 19 conversations with any of your colleagues or
03:33:00 20 former colleagues at the Milwaukee Police
03:33:02 21 Department about Ellis?

03:33:03 22 A Not that I recall.

03:33:05 23 Q Did you take any interest in his arrest based
03:33:22 24 on the fact that he was arrested and ultimately
03:33:24 25 convicted of a number of -- nine homicides from

03:33:26 1 the period of time with which you were working
03:33:28 2 homicide?

03:33:29 3 A I was retired for four years already from
03:33:33 4 there.

03:33:33 5 Q Understood. When he was charged and convicted
03:33:37 6 you were retired, but the cases for which he
03:33:39 7 was charged and convicted, a number of them
03:33:41 8 occurred when you were a detective with the
03:33:43 9 Milwaukee Police Department.

03:33:45 10 A Okay. Yes.

03:33:46 11 Q So I'm just asking, did you take any interest
03:33:48 12 in it given that they were homicides you'd been
03:33:52 13 working up?

03:33:53 14 A The only one I was interested in was the
03:33:56 15 Jessica Payne.

03:34:00 16 Q Why were you interested in that one?

03:34:02 17 A Because they had identified his DNA with her.
03:34:09 18 I was -- took interest in that.

03:34:13 19 Q Did it concern you that Walter Ellis -- well,
03:34:21 20 what -- what interested you about the fact that
03:34:23 21 Walter Ellis's DNA was found in Jessica Payne?

03:34:27 22 A I just was interested in the circumstances and
03:34:31 23 how his DNA was recovered from her.

03:34:36 24 Q Did you talk to anybody in the department about
03:34:39 25 that?

03:34:40 1 A Not that I recall.

03:34:42 2 Q Okay. So you just read about that in the
03:34:45 3 newspaper?

03:34:46 4 A No. I remember talking to Mark Williams.

03:35:03 5 Q What did you and Mark Williams talk about?

03:35:06 6 A He just told me that they were charging this
03:35:11 7 guy with numerous homicides and that it was his
03:35:18 8 DNA that was identified with Jessica Payne.

03:35:22 9 Q Anything else you recall about that
03:35:25 10 conversation with Mark Williams?

03:35:27 11 A No.

03:35:28 12 Q Was that when you were working as an
03:35:31 13 investigator with the DA's office?

03:35:32 14 A Yes.

03:35:33 15 Q Was that in Mark's office?

03:35:35 16 A Yes.

03:35:36 17 Q Anybody else other than you and Mark present
03:35:39 18 for that conversation?

03:35:40 19 A Not that I recall.

03:35:41 20 Q Was that conversation prior to the actual
03:35:45 21 criminal complaint being issued for Walter
03:35:47 22 Ellis?

03:35:48 23 A I don't know.

03:35:48 24 Q Did you and Mark have any conversation about
03:35:53 25 whether he was going to charge Walter Ellis

03:35:55 1 with Jessica Payne's murder?

03:35:58 2 A In particular, no, I don't have recollection of

03:36:05 3 our conversation about that.

03:36:07 4 Q Did you have any conversation with Mark

03:36:14 5 Williams about whether he was considering to

03:36:17 6 charge Walter Ellis with the murder of Jessica

03:36:20 7 Payne based on the DNA evidence?

03:36:30 8 A I believe -- I can't say for certain what the

03:36:36 9 conversation was.

03:36:37 10 Q It sounds like you recall a vague conversation,

03:36:41 11 but you don't recall the specifics --

03:36:42 12 A But I don't want to say something where I'm

03:36:45 13 guessing. So I don't remember what the

03:36:49 14 conversation was.

03:36:49 15 Q Okay. And just so I have it clear, I don't

03:36:54 16 want you to speculate. I don't need you to

03:36:56 17 guess. So -- and I don't want you to do that

03:36:58 18 and neither does your attorney, so I'm not

03:37:00 19 asking you to do that, okay? Okay?

03:37:03 20 A Yes.

03:37:03 21 Q Why don't you just tell me everything that you

03:37:09 22 do have a memory of.

03:37:10 23 A I did already.

03:37:11 24 Q Okay. And so your memory is that you remember

03:37:24 25 having a conversation with Mark Williams about

03:37:28 1 Walter Ellis's DNA being found on a number of
03:37:32 2 victims for which he was either going to be
03:37:36 3 charged or was already charged, right?

03:37:37 4 A Yeah, I don't know if he had been charged yet
03:37:39 5 or was being looked at. I don't know. I don't
03:37:43 6 remember.

03:37:43 7 Q But it was -- this conversation was sometime
03:37:45 8 after the point at which Walter Ellis's DNA had
03:37:49 9 been obtained and then was linked to these
03:37:52 10 various evidentiary profiles?

03:37:54 11 A Yes.

03:37:54 12 Q Okay. And so Walter Ellis was -- had either
03:37:58 13 been charged or was going to be charged, one of
03:38:02 14 those two, right?

03:38:02 15 A One of the two.

03:38:03 16 Q Yep. And Jessica Payne, her homicide was
03:38:09 17 brought up in that conversation in the context
03:38:11 18 of she was one of the people who Walter Ellis's
03:38:16 19 DNA was found in or on?

03:38:19 20 A Correct.

03:38:19 21 Q Okay. And you don't recall one way or the
03:38:23 22 other whether you and Mark Williams had any
03:38:27 23 discussion about whether he was going to charge
03:38:30 24 Walter Ellis with Payne's homicide; you just
03:38:33 25 don't recall one way or the other?

03:38:35 1 A Correct.

03:38:35 2 Q Okay. And is that the extent of your memory as
03:38:42 3 you sit here today of that conversation with
03:38:44 4 Mark Williams --

03:38:45 5 A Yes.

03:38:45 6 Q -- in his office?

03:38:47 7 A Yes.

03:38:47 8 Q Okay. Prior to the conversation you've just
03:39:00 9 testified about with Mark Williams, do you, as
03:39:03 10 you sit here today, remember any other
03:39:06 11 conversations you had with Mark Williams after
03:39:10 12 Mr. Ott's criminal trial concluded and this
03:39:15 13 conversation, whenever it occurred, regarding
03:39:18 14 Walter Ellis and the Payne homicide? Do you
03:39:22 15 have any other memory of conversations you had
03:39:24 16 with Mark Williams about the Payne homicide
03:39:27 17 between those two time periods?

03:39:29 18 A No, I don't.

03:39:31 19 Q Okay. Thank you. Did you have any work -- do
03:40:08 20 you remember the Maryetta Griffin homicide?
03:40:11 21 Did you do any work on that homicide that you
03:40:13 22 remember?

03:40:13 23 A No, not that I remember.

03:40:14 24 Q Okay. Okay. Let's see. Do you need a break,
03:40:47 25 or do you want to keep going?

03:40:49 1 A I'm okay.

03:40:51 2 Q Okay.

03:40:51 3 MS. DONNELL: Are you okay?

03:40:52 4 MS. GEHLING: (Nods head.)

03:41:09 5 MS. DONNELL: Okay.

03:41:21 6 (Exhibit No. 23 was marked.)

03:41:22 7 BY MS. DONNELL:

03:41:25 8 Q Mr. Buschmann, I'm handing you what I've
03:41:27 9 designated as Exhibit 23 to your deposition,
03:41:31 10 and this is from the Florence McCormick
03:41:37 11 homicide, M No. 3044, and it's Bates stamped
03:41:43 12 HADAWAY38631 consecutive to 635, and it's part
03:41:50 13 of Section 13 of that M file, Pages 44 to 48,
03:41:56 14 okay?

03:41:56 15 A Okay.

03:41:57 16 Q This report was submitted by Detective Orley.
03:42:08 17 Do you know who Detective Orley was?

03:42:10 18 A Yes.

03:42:10 19 Q Okay. And did you work with Detective Orley?

03:42:13 20 A No.

03:42:14 21 Q You never worked with him?

03:42:17 22 A I did not.

03:42:18 23 Q Okay. Okay. Do you see at the bottom of this
03:42:33 24 report "This was passed to Detective Buschmann
03:42:37 25 and Detective Valuch on the early shift," and

03:42:42 1 detectives will take possible hair and blood
03:42:45 2 samples from an individual, a Mr. Scott, a
03:42:53 3 Mr. Sylvester Scott? Do you see that?

03:42:54 4 A Yes.

03:42:56 5 Q Do you remember -- does that refresh your
03:42:59 6 recollection of any of your involvement on the
03:43:02 7 Florence McCormick homicide?

03:43:04 8 A No.

03:43:04 9 Q Okay. Okay. I'm going to mark this as
03:43:42 10 Exhibit 24.

03:43:53 11 (Exhibit No. 24 was marked.)

03:43:54 12 BY MS. DONNELL:

03:43:54 13 Q I'm handing you what I've designated as
03:43:58 14 Exhibit 24, Mr. Buschmann. Do you see Exhibit
03:44:00 15 24 and recognize this as a supplementary report
03:44:04 16 prepared by Detective Michael Valuch -- is it
03:44:11 17 Valuch or Valuch?

03:44:11 18 A Valuch.

03:44:12 19 Q Valuch.

03:44:12 20 -- documenting work you did with him
03:44:15 21 in June of 1995 on the Sheila Farrior homicide
03:44:19 22 investigation?

03:44:43 23 A I don't remember this.

03:44:44 24 Q You don't remember the work you did with
03:44:49 25 Detective Valuch on June 28th, 1995, in the

03:44:55 1 Sheila Farrior homicide; is that right?

03:44:57 2 A That's correct.

03:44:58 3 Q But you don't disagree that you were doing work

03:45:01 4 on that homicide?

03:45:02 5 A Correct.

03:45:02 6 Q Okay. Did you ever work with confidential

03:45:08 7 informants when you were a homicide detective?

03:45:12 8 A No.

03:45:12 9 Q You never did?

03:45:13 10 A No.

03:45:13 11 Q Why not?

03:45:14 12 A It was not something I did.

03:45:17 13 Q Okay. Was there a reason why you didn't work

03:45:20 14 with confidential informants?

03:45:22 15 A I never had a reason to.

03:45:24 16 Q You certainly were permitted to, right?

03:45:27 17 A Yes. I've never worked with a confidential

03:45:38 18 informant.

03:45:39 19 Q Did any of your partners ever work with

03:45:48 20 confidential informants --

03:45:51 21 MS. GEHLING: Objection; foundation.

03:45:51 22 BY MS. DONNELL:

03:45:51 23 Q -- that you're aware of?

03:45:53 24 A I don't know.

03:45:53 25 Q But there's no particular reason why you

03:45:55 1 didn't?

03:45:56 2 A No.

03:46:19 3 Q Do you remember any of the circumstances of the

03:46:21 4 Sheila Farrior homicide?

03:46:23 5 A No.

03:46:24 6 Q How about the Debra Maniece homicide?

03:46:27 7 A No, not really. I know Maniece was one of the

03:46:38 8 homicide victims, and I think Detective

03:46:44 9 Wesolowski and I did some work on that, that

03:46:45 10 case.

03:46:46 11 Q Okay. What do you remember about your work on

03:46:51 12 the Maniece homicide, the Debra Maniece

03:46:54 13 homicide?

03:46:55 14 A I -- I don't know the person's name, but there

03:47:00 15 was DNA found that was identified, and this

03:47:04 16 person was in prison out of state, and we had

03:47:07 17 gone to that prison and talked to him.

03:47:09 18 Q Was that George Jones?

03:47:11 19 A I'm not sure.

03:47:12 20 Q And that was down in Mississippi?

03:47:17 21 A It could have been. I know it was down south.

03:47:22 22 Q Do you remember who you went with?

03:47:24 23 A It would have been with Detective Wesolowski.

03:47:27 24 Q Okay. How about the Mims homicide? Do you

03:47:40 25 remember working on the Joyce Mims homicide?

03:47:42 1 A I do not.

03:47:43 2 Q Okay. This will be Exhibit 25.

03:48:05 3 (Exhibit No. 25 was marked.)

03:48:05 4 BY MS. DONNELL:

03:48:05 5 Q I'm handing you what I've designated as
03:48:09 6 Exhibit 25. Do you recognize Exhibit 25 as a
03:48:18 7 report submitted by Detective Michael
03:48:22 8 Wesolowski?

03:48:22 9 A Yes.

03:48:23 10 Q And this report actually is documenting some
03:48:29 11 work that you did with him in April of 2003.
03:48:33 12 Do you see that down at the bottom?

03:48:35 13 A Yes.

03:48:35 14 Q But Joyce Mims was somebody who was murdered
03:48:38 15 back in June 1997. Do you see that?

03:48:41 16 A Yes.

03:48:42 17 Q Okay. And do you see here that -- so this
03:49:18 18 investigation that you were doing in April of
03:49:21 19 2003, basically there was items that were
03:49:32 20 resubmitted for testing in February of 2003,
03:49:35 21 right --

03:49:35 22 A Yes.

03:49:35 23 Q -- for Ms. Mims in the first paragraph?

03:49:40 24 A Yes.

03:49:41 25 Q Okay. And there was DNA -- on April 10th of

03:49:57 1 2003, there was a hit, a positive hit, in the
03:50:00 2 DNA Databank regarding the semen that was found
03:50:03 3 in the underpants located next to the body of
03:50:06 4 Ms. Mims with a Mr. Fabian Reyes, right?

03:50:10 5 A Yes.

03:50:10 6 Q And so you and your partner, Mr. Wesolowski,
03:50:15 7 went and talked to him, right?

03:50:17 8 A Yes.

03:50:21 9 Q Okay. And Mr. Reyes gave you guys a buccal
03:50:37 10 swab; is that right?

03:50:50 11 A Yes.

03:50:50 12 Q And then there's some other follow-up interview
03:50:53 13 and this was presented to Mark Williams and he
03:50:55 14 decided not to charge Fabian Reyes, right?

03:51:03 15 A Yes.

03:51:04 16 Q Okay. And then not too long after this work
03:51:10 17 that you did on the Joyce Mims investigation
03:51:14 18 was when there was that DNA hit less than a
03:51:18 19 month later, right, or around a month later on
03:51:22 20 May 22nd where there was the hit between --
03:51:27 21 that the lab identified between Payne --

03:51:27 22 A Oh, okay.

03:51:29 23 Q -- and Mims, right?

03:51:30 24 A Okay. Yes.

03:51:31 25 Q So you and Wesolowski were working on the Mims

03:51:35 1 case in April of 2003, a little more than a
03:51:41 2 month before that hit came through, right?

03:51:44 3 A Yes.

03:51:44 4 Q Okay. Does that refresh your recollection in
03:51:46 5 any way of the work you were doing back then?

03:51:49 6 A No.

03:51:49 7 Q Okay. As you sit here today, are you now aware
03:51:57 8 that the -- Walter Ellis was charged with the
03:52:01 9 Mims homicide?

03:52:02 10 A I wasn't aware of that, no.

03:52:05 11 Q Are you -- as you sit here today, are you also
03:52:09 12 aware that he was charged with the Sheila
03:52:12 13 Farrior homicide?

03:52:13 14 A No.

03:52:14 15 Q How about Debra Harris? Did I ask you about
03:52:19 16 Debra Harris? Did you work on that homicide?

03:52:21 17 A No. I don't know which homicides he was
03:52:23 18 charged with.

03:52:24 19 Q Okay. As you sit here today, you don't know
03:52:26 20 any of them?

03:52:26 21 A No.

03:52:27 22 Q Okay.

03:52:56 23 MS. DONNELL: Let's go off the
03:52:57 24 record.

03:52:58 25 THE VIDEOGRAPHER: Going off the

03:52:59 1 record at 3:52.

03:53:01 2 (Brief recess taken.)

04:00:33 3 THE VIDEOGRAPHER: We're back on the
04:00:34 4 record at 4:00.

04:00:37 5 BY MS. DONNELL:

04:00:39 6 Q Okay. Detective Buschmann, thank you for your
04:00:41 7 time. I do have some follow-up questions.

04:00:45 8 A Okay.

04:00:45 9 Q Earlier you testified that you gave Mr. Hadaway
04:00:49 10 the Miranda card to read to himself because you
04:00:53 11 wanted to make sure he could read. Do you
04:00:56 12 remember that testimony?

04:00:56 13 A I had him read it out loud to me.

04:00:58 14 Q And that was because you wanted to make sure he
04:01:01 15 could read; is that right?

04:01:01 16 A Yes.

04:01:01 17 Q Was that something you did for everybody you
04:01:04 18 interviewed after you read their Miranda --
04:01:08 19 read their Miranda warnings, or was that unique
04:01:10 20 to individuals that you wanted to make sure
04:01:12 21 they could read?

04:01:15 22 A I wouldn't say I did it all the time.

04:01:20 23 Q Did you have a reason why you would do it
04:01:25 24 sometimes and not other times or a practice?

04:01:30 25 A It was a practice that I picked up from some

04:01:33 1 other detectives when I was watching them and I
04:01:36 2 liked it, so then I started using it.

04:01:39 3 Q Was there a reason -- was there certain
04:01:43 4 situations that you chose to use it versus not
04:01:46 5 use it?

04:01:47 6 A I didn't really consider it when I first
04:01:51 7 started. It's something I just picked up
04:01:54 8 around -- at some point.

04:01:58 9 Q Once you picked up that practice, did you do it
04:02:00 10 with everybody you interviewed that was -- that
04:02:03 11 you apprised them of their rights?

04:02:05 12 A I don't recall.

04:02:07 13 Q I guess what I'm trying to get at is was there
04:02:12 14 anything that you had observed in your
04:02:14 15 interactions with Mr. Hadaway or had been
04:02:17 16 informed by other detectives in their
04:02:19 17 interactions with Mr. Hadaway that made you
04:02:21 18 want to make sure he could read?

04:02:25 19 A When reviewing the statement that I wrote, I
04:02:30 20 had him follow along, and I wanted to make sure
04:02:33 21 that, as he was following along, he could
04:02:35 22 actually read what I was reading to him.

04:02:40 23 Q Why did you read it to him instead of having
04:02:44 24 Mr. Hadaway read it to himself?

04:02:46 25 A That's what I do.

04:02:48 1 Q You do that for everybody?

04:02:49 2 A Yes.

04:02:49 3 Q Why do you do that?

04:02:53 4 A That's the way I -- that was the way I

04:02:57 5 operated.

04:02:58 6 Q Any particular reason --

04:02:59 7 A No.

04:02:59 8 Q -- for that being the reason why you operated

04:03:02 9 that way?

04:03:02 10 A That's what I liked to do. That's what I

04:03:05 11 thought worked good for me.

04:03:07 12 Q But you didn't have a particular reason, it

04:03:09 13 sounds like?

04:03:10 14 A No.

04:03:10 15 Q Because I thought earlier you would give people

04:03:13 16 the option to read it to themselves or have it

04:03:16 17 read to them and then they could -- they'd

04:03:19 18 write down which one happened?

04:03:21 19 A Well, I wanted to make sure that he was

04:03:23 20 actually reading what I had written down.

04:03:25 21 Q But did you sometimes give people the option to

04:03:29 22 read the statements you'd written to

04:03:32 23 themselves?

04:03:32 24 A No.

04:03:33 25 Q Okay. Have you, in your career with the

04:03:42 1 Milwaukee Police Department, ever investigated
04:03:47 2 homicides that had a modus operandi or certain
04:03:57 3 idiosyncratic circumstances that were being
04:03:58 4 investigated as possibly victims of a serial
04:04:03 5 killer?

04:04:03 6 A That I was involved in?

04:04:05 7 Q Yes.

04:04:11 8 A It would have been the prostitution homicides.

04:04:18 9 Q Other than the prostitution homicides, any
04:04:20 10 other homicides that were investigated for a
04:04:23 11 possible serial killer?

04:04:24 12 A Not that I can recall.

04:04:26 13 Q Okay. And I -- forgive me, but was the Jeffrey
04:04:47 14 Dahmer, was that in your career as a detective?

04:04:50 15 A Yes.

04:04:50 16 Q Did you have any involvement in that case?

04:04:52 17 A I did not.

04:04:55 18 Q Okay. I forgot to ask you, did you know who
04:05:03 19 Latonya Cooper is?

04:05:05 20 A No.

04:05:05 21 Q How about Denise Ball?

04:05:10 22 A No.

04:05:10 23 Q How about Stanley Hueble?

04:05:22 24 A No.

04:05:22 25 Q I forgot to ask you this. Were you trained as

04:05:32 1 an officer at the Milwaukee Police Department
04:05:34 2 on any duties to disclose exculpatory
04:05:40 3 information?

04:05:42 4 A No.

04:05:44 5 Q Okay. Do you have an understanding of the word
04:06:00 6 "exculpatory" as you sit here today?

04:06:01 7 A Yes.

04:06:01 8 Q What's your understanding of it?

04:06:04 9 A Evidence that could change the way a person is
04:06:09 10 charged or if it can exonerate that person.

04:06:16 11 Q Do you have an understanding of the word
04:06:21 12 "inculpatory"?

04:06:22 13 A Not that much.

04:06:23 14 Q You don't know what it means, inculpatory?

04:06:26 15 A Inculpatory?

04:06:27 16 Q Yeah.

04:06:29 17 A No.

04:06:29 18 Q Okay. This is Exhibit 26.

04:06:54 19 (Exhibit No. 26 was marked.)

04:06:54 20 BY MS. DONNELL:

04:06:58 21 Q I'm handing you what I've designated as
04:07:01 22 Exhibit 26 to your deposition. Do you
04:07:03 23 recognize Exhibit 26? Have you seen it before?

04:07:06 24 A I've never seen this before.

04:07:07 25 Q Okay. This was produced in this litigation by

04:07:10 1 the City of Milwaukee as MPD SJH1434 through
04:07:17 2 1445, and it includes what appears to be your
04:07:27 3 in-service training curriculum, and then at the
04:07:31 4 last page -- as well as specialized training,
04:07:33 5 okay, for the first pages of it. Then the back
04:07:35 6 page -- two pages is a Statement [sic] of
04:07:36 7 Wisconsin Law Enforcement Standards Board
04:07:40 8 Transcript of Recruit Course Completion for the
04:07:43 9 Milwaukee Police Academy May 23rd, '77, to
04:07:47 10 September 16th, 1977.

04:07:49 11 A Yes.

04:07:49 12 Q Have you seen these last two pages?

04:07:51 13 A No.

04:07:52 14 Q And you haven't seen any of the pages in
04:07:54 15 Exhibit 26; is that right?

04:07:56 16 A No.

04:07:57 17 Q Okay. Do you see on -- it has the Bates stamp
04:08:20 18 1443 -- there's a specialized training report
04:08:24 19 for you? Do you see that?

04:08:36 20 A Yes.

04:08:36 21 Q And you see here it listed as a "New Detective
04:08:39 22 Orientation" for 80 hours?

04:08:41 23 A Correct.

04:08:41 24 Q And this looks like you completed that between
04:08:44 25 August 31st, 1990, and September 14th, 1990?

04:08:50 1 A Yes.

04:08:50 2 Q So did you attend the detective academy before

04:08:53 3 you became a detective in April '91?

04:08:56 4 A Yes.

04:08:56 5 Q And that was because you'd already taken the

04:08:58 6 test and it was -- you were going to be

04:09:00 7 promoted or probably going to be promoted?

04:09:02 8 A I was going to be promoted, correct.

04:09:05 9 Q Okay. And these last two pages -- or the very

04:09:09 10 last page of Exhibit 26 has your -- the hours

04:09:14 11 and subject matter from your police academy

04:09:17 12 training. Do you see that?

04:09:18 13 A Oh, I didn't see that.

04:09:19 14 Q Have you ever seen this before?

04:09:21 15 A No.

04:09:21 16 Q Okay. It looks like you were given various

04:09:37 17 categories of instruction, and then it says the

04:09:39 18 hours completed. So there was introduction,

04:09:43 19 fundamentals of human behavior, juvenile

04:09:47 20 procedures, police proficiencies, legal

04:09:48 21 principles, investigate -- crime investigation

04:09:51 22 and apprehension, traffic supervision, patrol

04:09:55 23 procedures, and administrative procedures, and

04:09:58 24 conclusion. Do you see that?

04:09:58 25 A Yep. Yes.

04:10:01 1 Q And it looks here that you were given in the
04:10:08 2 crime investigation and apprehension, that
04:10:12 3 there was interviewing techniques for two
04:10:16 4 hours. Do you see that? It's under Category
04:10:25 5 VI. I'm sorry, V. VI, yeah, crime
04:10:28 6 investigation and apprehension.

04:10:34 7 A Okay.

04:10:35 8 Q Do you see that little section that says
04:10:37 9 "Interviewing Techniques, Mandatory Hours: 2"?

04:10:41 10 A Yes.

04:10:41 11 Q Okay. But it looks like you -- it says that --
04:10:52 12 we don't know, but it says the total hours
04:10:55 13 completed, and it looks like 84 there, right?

04:10:58 14 A Yep. Yes.

04:10:58 15 Q But we don't know how many of that was for
04:11:01 16 interviewing, right?

04:11:03 17 A No.

04:11:03 18 Q Does that refresh your recollection in any way
04:11:05 19 of techniques you were trained on in
04:11:08 20 interviewing at the academy?

04:11:10 21 A I don't have any current recollection, but this
04:11:14 22 shows that I did attend some training.

04:11:19 23 Q Yep. I'm just asking if it refreshes your
04:11:25 24 recollection in any way.

04:11:26 25 A No.

04:11:27 1 Q No. Okay. Going back to that May 22nd, 2003,
04:11:50 2 DNA report and the June 5th, 2003, DNA report,
04:11:56 3 Exhibits 21 and 22, do you remember those?

04:11:58 4 A Yes.

04:11:58 5 Q Do you, as you sit here today, have a belief
04:12:02 6 about whether that information contained in
04:12:04 7 those reports was exculpatory?

04:12:09 8 A No.

04:12:11 9 Q Meaning "No," you don't have a belief, or "No,"
04:12:14 10 it wasn't exculpatory?

04:12:16 11 A No, I don't have a belief.

04:12:17 12 Q Okay. Do you have an understanding of whether
04:12:21 13 that information should have been turned over
04:12:24 14 to the prosecutor, Mark Williams?

04:12:27 15 A I can't say that it wasn't.

04:12:30 16 Q Fair. You can't say one way or the other,
04:12:32 17 right?

04:12:33 18 A Correct.

04:12:33 19 Q Because you just don't remember, right?

04:12:36 20 A Correct.

04:12:36 21 Q My question's a little bit different. Do you,
04:12:39 22 as you sit here today, think that information
04:12:42 23 should have been provided to the prosecutor?

04:12:47 24 A Yes.

04:12:47 25 Q Why?

04:12:48 1 A Because it concerned a case that he had
04:12:54 2 prosecuted.

04:12:55 3 Q Do you, as you sit here today, have an
04:13:00 4 understanding that the information contained in
04:13:02 5 those two DNA reports was exculpatory
04:13:08 6 information for Mr. Hadaway?

04:13:12 7 A No.

04:13:13 8 Q You don't think it was exculpatory as to
04:13:17 9 Mr. Hadaway?

04:13:18 10 A No.

04:13:18 11 Q How about with respect to Mr. Ott?

04:13:20 12 A No.

04:13:20 13 Q And can you explain for me why your answer is
04:13:25 14 "No," that information is not exculpatory as to
04:13:27 15 Mr. Hadaway and his conviction for the robbery
04:13:32 16 of Ms. Payne?

04:13:34 17 A There was no indication that either one of them
04:13:38 18 had sexually -- had any sexual contact with the
04:13:42 19 victim.

04:13:45 20 Q Okay. And do you think -- well, so based on
04:14:00 21 that, you think that that -- based on your
04:14:03 22 belief that there was no evidence that
04:14:05 23 Mr. Hadaway or Mr. Ott had sexual contact with
04:14:08 24 Ms. Payne, then you don't think those DNA
04:14:10 25 reports were exculpatory as to them; is that

04:14:15 1 right?

04:14:15 2 A Correct.

04:14:15 3 Q Any other reason?

04:14:17 4 A No.

04:14:18 5 Q Do you remember the Chaunte Ott case?

04:14:23 6 A Yes.

04:14:24 7 Q And other than communications with your

04:14:26 8 attorneys, do you have an understanding of how

04:14:29 9 that case was resolved?

04:14:32 10 A Yes.

04:14:32 11 Q And what's your understanding of how the Ott

04:14:35 12 case was resolved?

04:14:36 13 A The City paid him.

04:14:38 14 Q Okay. Do you have any opinions or feelings

04:14:43 15 about that?

04:14:45 16 A Yes.

04:14:45 17 Q What's that?

04:14:46 18 A I feel Chaunte Ott is guilty, and I feel Sam

04:14:49 19 Hadaway is guilty.

04:14:51 20 Q Okay. And can you tell me, as you sit here

04:14:57 21 today, what you base your belief on that Sam

04:15:01 22 Hadaway is guilty of the murder of Ms. Payne?

04:15:05 23 A I didn't say he's guilty of the murder.

04:15:08 24 Q I'm sorry.

04:15:09 25 A He's guilty of the attempted robbery of her.

04:15:12 1 Q Okay. And what's that based upon?

04:15:14 2 A Based upon his own statement, his own words.

04:15:20 3 Q And you understand the allegations in this case
04:15:25 4 is that Mr. Hadaway is alleging that he was
04:15:28 5 coerced into providing that statement and that
04:15:31 6 it was a false and fabricated statement, right?

04:15:34 7 A Yes.

04:15:35 8 Q Okay. And you -- well, how about Mr. Ott? Do
04:15:44 9 you think Mr. Ott, as you sit here today, is
04:15:45 10 guilty of the murder of Jessica Payne?

04:15:47 11 MS. GEHLING: Objection; relevance.
04:15:48 12 That -- that case is over. That has nothing to
04:15:51 13 do with this case. This case is about Sam
04:15:54 14 Hadaway, not about Chaunte Ott. He literally
04:15:56 15 just said it was settled, so what does it
04:15:58 16 matter what he thinks about it?

04:15:58 17 MS. DONNELL: But, yes, you
04:15:59 18 understand relevance isn't an objection, so he
04:16:00 19 said he --

04:16:00 20 MS. GEHLING: I do, but it doesn't
04:16:01 21 have anything to do with this case.

04:16:03 22 MS. DONNELL: Well, it does --

04:16:04 23 MS. GEHLING: It does not relate to
04:16:06 24 any admissible evidence because that case is
04:16:08 25 over and his feelings on what Chaunte Ott's

04:16:12 1 guilt is have nothing to do with this civil
04:16:13 2 case -- either civil case at all.

04:16:14 3 MS. DONNELL: Okay. Well, I'm going
04:16:15 4 to ask the question, and if you want to make
04:16:18 5 your record, you can.

04:16:18 6 MS. GEHLING: That's fine.

04:16:19 7 MS. DONNELL: Okay.

04:16:19 8 BY MS. DONNELL:

04:16:19 9 Q So, again, you testified earlier that you think
04:16:21 10 Mr. Ott is guilty of the murder of Ms. Payne,
04:16:24 11 right?

04:16:24 12 A Yes.

04:16:25 13 Q And what is that based upon?

04:16:27 14 A Based on the statement of Sam Hadaway.

04:16:33 15 Q The statement that Sam Hadaway provided to you
04:16:35 16 on October 27th, 1995?

04:16:38 17 A Correct.

04:16:38 18 Q Anything else?

04:16:43 19 A Some of Richard Gwin's statement also stating
04:16:49 20 that Ott was with them in that location.

04:16:53 21 Q Anything else?

04:16:56 22 A Nope.

04:16:56 23 Q Okay.

04:17:15 24 MS. DONNELL: Okay. Thank you for
04:17:16 25 your time today. I don't have any questions at

04:17:18 1 this time, but I don't know if your attorney
04:17:20 2 has questions that I might want to follow up
04:17:22 3 on.

04:17:22 4 EXAMINATION

04:17:22 5 BY MS. GEHLING:

04:17:23 6 Q I just have one question about Exhibit 12, if
04:17:26 7 you can take it out, and it could be that I'm
04:17:27 8 remembering your questions -- Attorney
04:17:32 9 Donnell's questions incorrectly, but I -- when
04:17:33 10 you were talking about it, I recall her asking
04:17:38 11 if just the signatures were -- well, the
04:17:42 12 handwritten statement was written by you,
04:17:44 13 correct?

04:17:44 14 A Yes.

04:17:44 15 Q And then she asked if the only other
04:17:47 16 handwriting on the -- on the paper was the
04:17:50 17 signatures of Mr. Hadaway. Do you remember
04:17:53 18 that --

04:17:53 19 A Yes.

04:17:53 20 Q -- conversation?

04:17:54 21 A Yes.

04:17:54 22 Q And you answered "Yes," right?

04:17:56 23 A Yes.

04:17:56 24 Q I just want to make sure, but there are also
04:17:59 25 initials at the bottom of the page, "SH." Did

04:18:02 1 you write those?

04:18:03 2 A No, Mr. Hadaway did.

04:18:04 3 Q Okay. And there are a couple corrections on
04:18:11 4 Page -- like, at 3 of the -- Page 3 of 6. So
04:18:20 5 it's marked -- Bates marked 744 is the ending.

04:18:24 6 A Yes.

04:18:24 7 Q There's a correction on the fourth line.

04:18:27 8 A Correct.

04:18:28 9 Q I see there are two initials, two sets of
04:18:33 10 initials.

04:18:34 11 A The "CB" are mine, and the "SH" are Hadaway's.

04:18:41 12 Q Okay. And then is that similar for the
04:18:45 13 corrections that we see on Page 4? There are
04:18:49 14 one, two, three of them.

04:18:53 15 A Yes.

04:18:53 16 Q I believe.

04:18:55 17 A That would be correct.

04:18:56 18 Q And the same for Page 5? There's one -- one
04:19:04 19 that kind of goes from one line to the next.

04:19:06 20 A Yes.

04:19:06 21 Q Okay. And then -- and then the signatures that
04:19:13 22 appear on Page 1 and 6 are Mr. Hadaway's?

04:19:18 23 A Correct.

04:19:18 24 Q Okay.

04:19:19 25 MS. GEHLING: That's all. I just

04:19:20 1 wanted to make clear to everybody what was
04:19:23 2 written on there.

04:19:24 3 MS. DONNELL: I don't have any
04:19:24 4 further questions. Do you want to reserve
04:19:28 5 signature?

04:19:29 6 MS. GEHLING: Yes, please.

04:19:31 7 MS. DONNELL: Okay.

04:19:31 8 THE VIDEOGRAPHER: Going off the
04:19:32 9 record at 4:19.

10 (Proceedings concluded at 4:19 p.m.)

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1 STATE OF WISCONSIN)
) SS:
2 COUNTY OF MILWAUKEE)
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5 I, SAMANTHA J. SHALLUE, a Registered
6 Professional Reporter and Notary Public in and for
7 the State of Wisconsin, do hereby certify that the
8 above deposition of CARL BUSCHMANN was recorded by
9 me on April 7, 2021, and reduced to writing under my
10 personal direction.

11 I further certify that I am not a
12 relative or employee or attorney or counsel of any
13 of the parties, or a relative or employee of such
14 attorney or counsel, or financially interested
15 directly or indirectly in this action.

16 In witness whereof I have hereunder set
17 my hand and affixed my seal of office at Milwaukee,
18 Wisconsin, this 15th day of April, 2021.

19
20
21 _____
22 Notary Public
 In and for the State of Wisconsin
23
24

25 My Commission Expires: June 3, 2023.

1 STATE OF)
2 COUNTY OF) SS:

3
4 I, CARL BUSCHMANN, do hereby certify
5 that I have read the foregoing transcript of
6 proceedings, taken on April 7, 2021, at Brown &
7 Jones Reporting, Inc., 735 North Water Street, Suite
8 M185, Milwaukee, Wisconsin, and the same is true and
9 correct, except for the list of corrections noted on
10 the annexed page.

11
12 Dated at _____
13 this _____ day of _____, 2021.

14
15
16 _____
17 CARL BUSCHMANN

18
19 Subscribed and sworn to before me
20 this _____ day of _____ 2021.

21
22 _____
23 Notary Public

24 My Commission Expires:
25

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